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he operation, practices and procedures of the Irish House of Commons from 1692 to 1730

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**The operation, practices and procedures of
the Irish House of Commons
from 1692 to 1730**

by

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Philosophy

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Abstract

Despite the pretensions to antiquity in the *Modus Tenendi Parliamenta ... in Hibernia* (1692), and the claims to sovereignty in Molyneux's *Case of Ireland* (1698) the Irish House of Commons from 1692 looked to Westminster and the parliamentary transformation that followed the 1688 Revolution not only for constitutional parity of status but also for procedural and operational efficiency. The Irish parliaments of the 1690s saw innovation, compromise and improvisation in procedures, and after 1703 distinctive historic Irish practices were eclipsed. The main differences with Westminster that emerged were adjustments, to operate within Poynings' Law and divergent Irish political and constitutional arrangements. The stimulus and conduit for change were a growing print culture, the shared political alignment of politics in Westminster and Dublin and contacts between politicians and parliamentary officials. Westminster practices were adopted in the Commons silently, as standing orders or under the cloak of 'the constitution of parliament', to protect emerging patriotic sensibilities.

The procedural similarities between the two Houses of Commons have been noted in the historiography but not examined in detail. While the historiography has moved on from the view of the eighteenth century as a crescendo to 1782, 1798 and union, some parts of the legacy still colour the approach to the Irish Parliament. First, there is a lingering teleological waiting for the removal of the distortions caused by Poynings' Law. Second, there has been a focus on a top-down management of the Commons, to secure the Government's priorities, which, although providing structure to each session, did not take up the bulk of the time that the Commons was in session. The Commons was for the most part an adaptation, rather than an exact copy, of post-1688 Westminster.

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List of Abbreviations

<i>BL</i>	British Library manuscript collections
c.	chapter
co.	county
<i>CJE</i> and <i>CJGB</i>	<i>Journals of the House of Commons of England</i> (to 1707) and of <i>Great Britain</i> (from 1707); see bibliography. Roman number indicates volume.
<i>CJI</i>	<i>Journals of the House of Commons of the Kingdom of Ireland</i> , 4 th edition; see bibliography. Roman number indicates volume.
<i>CJI</i> (1 st edn)	<i>Journals of the House of Commons of the Kingdom of Ireland</i> , 1 st edition; see bibliography.
<i>CSPD</i>	<i>Calendar of State Papers Domestic</i> ; see bibliography. Where <i>CSPD</i> has been used rather than the original source the reference includes <i>CSPD</i> .
<i>CTB/CTBP</i>	<i>Calendar of Treasury Books Calendar of Treasury Books and Papers</i> ; see bibliography.
<i>d</i>	denarius/ denarii for penny or pence
<i>DIB</i>	<i>Dictionary of Irish Biography</i> ; see bibliography.
ed.(eds.)	editor(s)
ff	and following pages (or entries)
f./ff. [with number]	folio(s)
fn	footnote
<i>HIP</i>	Edith Mary Johnston-Liik, <i>History of the Irish Parliament 1692–1800</i> ; see bibliography.
<i>HoP</i>	History of Parliament publications, in particular the volumes covering the House of Commons at Westminster from 1690 to 1820—for example, <i>History of Parliament, Commons 1715–1754</i> , vol. II as <i>HoP</i> (1715)(II); see bibliography.
<i>ILD</i>	<i>Irish Legislative Database</i> ; see Databases in Bibliography.
Jr.	Junior
lord lieutenant	unless otherwise stated or explicit, lord lieutenant is used generically for the chief governors of Ireland and includes lord deputies and lords justices
l/£	libra/ librae for pound/ pounds
<i>LJI</i>	<i>Journals of the House of Lords of Ireland</i> ; see bibliography. Roman number in brackets indicates volume.
<i>LJE/ LJGB</i>	<i>Journals of the House of the Commons of England</i> (to 1707) or of <i>Great Britain</i> (from 1707); see bibliography. Roman number indicates volume.
NS	New Style calendar i.e. the Gregorian calendar
OS	Old Style calendar i.e. the Julian calendar
s	solidus/solidi for shilling/ shillings
<i>SP</i>	State Papers series of The National Archives of the United Kingdom
Sr.	Senior
<i>Votes</i>	The daily printed sheets setting out the decisions and orders of the House of Commons

Note on spelling, nomenclature, references, dates and figures

The spelling, punctuation, capitalisation, some archaisms and italicisation of eighteenth-century publications and manuscripts have been modernised and contractions expanded.

Unless indicated otherwise 'administration' is used to refer to the Irish executive in Dublin Castle and 'government' to the English or British executive in Whitehall.

Dates before 1752 are given in Old Style (OS), that is according to the Julian calendar. For the avoidance of confusion, where a date falls between 1 January and 24 March the New Style (NS, the Gregorian calendar) year is added after a forward slash—for example, 1 February 1703/4 (or 1729/30). The one exception to this approach is the treatment of parliamentary sessions where Gregorian years have been used—thus the session that ran from 10 February 1704/5 to 16 June 1705 is referred to as the 1705 session and where a session straddles two Gregorian years as, for example, 1729–30.

Financial amounts have usually been rounded to the nearest pound.

1 Introduction

The genesis of this thesis was a comment by Edith Johnson-Liik in the introduction to *History of the Irish Parliament 1692–1800* that the 'Irish parliament modelled itself as closely as possible' on the Westminster House of Commons.¹ While the statement was made in the context of a discussion about the printing of the proceedings of the Irish House of Commons, it conveyed a broader view—established and elaborated in 1903 by Edward and Annie Porritt in *The Unreformed House of Commons*—that the Dublin legislature from the sixteenth century was on a journey to replicate the Westminster Commons. They concluded that, once the complicating processes required by Poynings' Law had been removed in 1782, 'it would be difficult for an expert in parliamentary procedure to detect any material differences' between the two legislatures.² While from the 1970s historians of Ireland have transformed the understanding of many aspects of eighteenth-century Ireland and of aspects of the Irish Parliament such as supply procedures and the operation of Poynings' Law,³ the broad picture of the procedural operation of the Irish Commons has not moved much beyond the work of the Porritts. This thesis sets out to examine and test the 'close as possible modelling' assumption and how the Commons developed and operated in the forty years from 1692.

1.1 Comparison with other legislatures

A review of the literature on some comparable legislatures was undertaken. Julian Goodare has commented that the Scottish parliament from the Restoration 'began to look and behave more like the parliament of England' than a medieval estates.⁴ Alastair Mann in 2003 reviewing the Scottish parliament of the 1690s considers that the pre-1707 Scottish parliament had not 'enjoyed a particularly high reputation with English and Scottish constitutional writers but that 'the reputation of and interest in the Scottish parliament is now the subject of much historiographical revision and effort'. Drawing on the work of Kathryn Ellis on the English parliament, Mann juxtaposed changes at Westminster with developments in the Edinburgh legislature, in particular:

¹ Edith Mary Johnston-Liik, *History of the Irish Parliament 1692–1800*, 6 vols. (Belfast, 2002), vol. 1, p.14

² Edward [and Annie] Porritt, *The Unreformed House of Commons: Parliamentary Representation Before 1832*, 2 vols. (Cambridge, 1903), (II), p.187; see also pp.404ff.

³ See C.I. McGrath, *The Making of the Eighteenth Century Irish Constitution: Government, Parliament and the Revenue 1692–1714* (Dublin, 2000) and James Kelly, *Poynings' Law and the Making of Law in Ireland 1660–1800: Monitoring the Constitution* (Dublin, 2007).

- a) the regular meeting of parliament instead of sporadic sessions;
- b) the increase in the volume of legislation which resulted in an 'unprecedented number of standing orders to fine-tune the procedures of the House in order to cope with the greater level of activity' and 'committees became more structured and specialized in response to the new level of business, although mostly based on existing models'; and
- c) the extension of parliamentary control of the crown's finances.⁵

All three changes—taking their lead from Westminster—can be seen emerging in Ireland after 1692. A central point Mann makes is that constitutional change in Scotland—the Claim of Right of 1689—took longer to be translated into procedural changes in the Scottish parliament than at Westminster.⁶ In Ireland in the 1690s attempts were initiated to secure a Bill of Rights but they failed in part because the Irish Parliament achieved a productive legislative breakthrough as a result of the compromise with Lord Deputy Capel and it became clear that the government would not go further to agree to what Lord Chancellor Methuen called an "impertinent" claim for a Bill of Rights.⁷ Molyneux cited Scotland as a model for the relationship between Ireland and England: 'the Kingdoms of England and Scotland at this day, [are] without any subordination of the one to the other'. But he makes neither an examination of the Scottish parliament nor an explicit claim that Ireland should replicate the constitutional changes of the 1688 Revolutions in Scotland and England.⁸ Although Ireland had neither a Bill of Rights nor a Claim of Right, the Irish Commons copied and adapted some of the procedural changes that flowed from the operational changes that emerged at Westminster.

The work of Pasi Ihalainen and Kari Palonen draws a distinction between the surviving medieval estates and diets of Europe and the British Parliament. Some of the Irish Parliament's features can be found in *ancien-régime* estates across Europe. William Doyle has pointed to, for example, the 'intense confusion of powers and perpetual overlaps of unequal jurisdiction' and the challenging

⁴ Julian Goodare, 'The Estates in the Scottish Parliament, 1286–1707', *Parliamentary History*, vol. 26, part 1 (2007), p.32

⁵ Alastair J. Mann, 'Inglorious Revolution: Administrative Muddle and Constitutional Change in the Scottish Parliament of William and Mary', 1600–1800, *Parliamentary History*, vol. 22, part 2 (2003), pp.121-22

⁶ Mann, 'Inglorious Revolution', pp.143

⁷ *SP*, 63–359 f.123(stamped 264) (To James Vernon, 16 Sep 1697); see also Kelly, *Poyning's Law*, pp.79-96.

⁸ William Molyneux, *The Case of Ireland Being Bound by Acts of Parliament in England, Stated* (Dublin, 1698), p.55

and bargaining between estates and central authority' found elsewhere across Europe.⁹ Particularism was often validated by claims of antiquity. Doyle notes that by the 1690s 'there was an extensive mythology', upon which Molyneux liberally drew, about the Irish Parliament's 'origins and early powers and development'.¹⁰ But inherent in the term *ancien-régime* is a history of continuity. Doyle states that 'when territories changed rulers, they seldom changed institutions' and implies continuity of institution, people and practices.¹¹ The convulsions of the sixteenth and seventeenth centuries meant that Ireland could not be a composite state similar to those found elsewhere in Europe, where the acquiring ruler depended on a deal with an old elite and undertook to preserve pre-merger customs with an estates focussed on defending these 'liberties'.¹² The *modern* (British) features suggested by Julian Hoppit can be detected—albeit in diluted form—in the operation of the Irish Parliament: more frequent and regular sittings; government prepared to work through, rather than around, parliament; the normalisation of controversy and discord within a resilient legislative process; and the use of the legislature by a propertied elite to protect and further their own interests as the state grew.¹³ These tests when applied to the Irish Parliament put it in the *modern* rather than *ancien* category,¹⁴ although, in contrast to Britain, there was confusion about where the focal point of power lay—Irish Parliament, Whitehall or Westminster. But other English/British (and emerging Scottish) characteristics can be detected: the free mandate of Members; and its operation as a deliberative decision-making assembly providing an 'agency for publicly representing' and changing political views.¹⁵ The legislative output of the Irish Parliament, like that of the Westminster parliament, increased from the 1690s.¹⁶ The pattern which Hoppit, Innes and Styles have identified at Westminster of a legislature receptive to sub-sectional interests

⁹ William Doyle, 'The British-Irish Union of 1801', *Transactions of the Royal Historical Society*, vol. 10 (Dec 2000), p.168; for example, he draws attention to features such as the far from open elections in Poland or Sweden that were dominated by magnate influence (p.171).

¹⁰ Doyle, 'Union', p.170

¹¹ Doyle, 'Union', p.168

¹² H.G. Koenigsberger, 'Composite States, Representative Institutions and the American Revolution', *Historical Research*, vol. 62, issue 148 (1989), p.135

¹³ Julian Hoppit, *A Land of Liberty? England 1689-1727* (Oxford, 2002), pp.26-27, 135, 311, 493

¹⁴ Julian Hoppit, 'Reformed and Unreformed Britain, 1689-1701' in William Doyle (ed.), *The Oxford Handbook of the Ancien Régime* (Oxford, 2012), pp.507-12

¹⁵ Pasi Ihalainen and Kari Palonen, 'Parliamentary Sources in the Comparative Study of Conceptual History: Methodological Aspects and Illustrations of a Research Proposal', *Parliaments, Estates and Representation*, vol. 29, issue 1 (2009), pp.17, 20-23, cites the quote from Jeremy Black.

¹⁶ See section 4.8 and Appendix 6.8.

that preferred to grant particular rights rather than blank cheques,¹⁷ is less pronounced in Ireland with a higher proportion of public legislation and is constrained by the elite's confessional boundaries. That said, the Irish Commons falls on the 'British' side of the line.

A limited comparison of the literature on legislatures in America provides further background. The historiography has shown some similarity with that of Ireland: the concentration on constitutional arrangements and disputes; a focus on the end of the eighteenth century colouring earlier developments; and what J.P. Greene calls the powerful "mimetic impulses" within colonial society,¹⁸ which chime with developments identified by Hoppit that appeared in Ireland and Scotland. Greene sees one of the most significant results of the 1688 Revolution as the localisation of power under growing parliamentary institutions, not just within Britain but also in Ireland and the American colonies. He points out that it was therefore entirely reasonable for the political nation in both Ireland and the colonies to assume that their "mimic parliaments" rested upon the same "foundations" and had the same rights and powers within their political jurisdictions as did the Parliament at Westminster.¹⁹ Greene points to parallels with the American colonies, where British parliamentary suzerainty was being established from 1688 combined with greater economic control through Navigation Acts.²⁰ He suggests how these impulses were transmitted—for example, through published parliamentary manuals—and affected the lower houses of the colonial legislatures which were striving to emulate the Westminster House of Commons and so bolster their importance and authority.²¹ Greene maps out the differences under which these legislatures and Westminster operated but does not measure the operational effect

¹⁷ Julian Hoppit, Joanna Innes and John Styles, 'Towards a History of Parliamentary Legislation, 1660–1800', *Parliamentary History*, vol. 13, issue 1 (Jan 1994), pp.319–20

¹⁸ Jack P. Greene, 'A Consideration of the Historical and Cultural Roots of Legislative Behavior in the British Colonies in the Eighteenth Century', *American Historical Review*, vol. 75, no. 2 (Dec 1969), p.343; see also J.P. Greene, *Peripheries and Center: Constitutional Development in the Extended Politics of the British Empire and the United States 1607–1788* (Georgia, 1986).

¹⁹ Greene, *Peripheries*, pp.63–64

²⁰ Greene, *Peripheries*, pp.13, 16

²¹ For the operation of Irish Commons from 1692 Scobell's *Memorials* (H. S. E. C. P [Henry Scobell], *Memorials of the Method and Manner of Proceedings in Parliament in Passing Bills Together with several Rules & Customs, which by long and constant practice have obtained the Name of Orders of the House Gathered by Observation, and out of the Journal Books, from the time of Edward 6.* (London, 1656; reprinted 1658, 1670, 1685 and 1689) provided guidance, and, where it is in-step with the Irish Commons, it has been noted or footnoted. Scobell was working in the early seventeenth century and, while a good guide on the rituals and rules within the chamber and on bill procedure, he pre-dates the procedures on supply that emerged in the 1690s. Similarly, Elsynge's *Ancient Method*, taking its cue from the English version of the *Modus*, covers the calling and opening of a parliament to a much greater extent than day-to-day operations.

within the legislatures of the mimetic impulse.²² In America there was no equivalent of Molyneux and no one seriously questioned the right of parliament at Westminster to legislate.²³

1.2 Historiographical review

Until comparatively recently, historical research on the eighteenth-century Irish Parliament concentrated on the closing decades of the century, the so-called 'age of reform', and was heavily political in emphasis.²⁴ One of the characteristics of Irish historiography has been its intertwining with contemporary politics and, as David Hayton has noted, the study of the eighteenth-century parliament has been no exception.²⁵ The union of Great Britain and Ireland enacted in 1800, which terminated the parliament sitting in Dublin, was—and even today is—a live political issue in Ireland where the actuality and perceptions of history can be used, to justify current political attitudes and attack opponents. The interpretation of politics, and the operation of institutions, at the end of the eighteenth century had a direct bearing on politics for more than the following century;²⁶ and in return those political attitudes coloured examination of the Irish Parliament.²⁷ As a result historians, many of whom were also politicians, focussed on why the Irish Parliament failed—or whether it was bound or deserved to fail—which inevitably drew attention to its constitutional position, its sectarian composition and legislation, its levels of 'corruption' and its failure to reform.

One of the first examinations of the operation of the Irish parliament was Thomas Davis' *The Irish Parliament of James II*, first published in 1843. It set out a model of a 'great Senate',²⁸ against

²² Greene, 'Consideration', pp.344-53

²³ Greene, *Peripheries*, p.59

²⁴ The same can be said for the study of the Irish Parliament in the seventeenth century, Coleman Dennehy notes parliamentary processes and institutional history were subordinated to a dominant political narrative until the late twentieth century, which sought to account for contemporary arrangements and point the way forward. Coleman A. Dennehy, *An Administrative and Legal History, 1613–1689*, Ph.D. thesis (2011), p.6

²⁵ D.W. Hayton (ed.), *The Irish Parliament in the Eighteenth Century: The Long Apprenticeship* (Edinburgh, 2002), p.2

²⁶ A pattern of approach also seen in England where the Whig view of history—sharing its name with a political party—argued that England was on a trajectory of improvement and this approach dominated academic history into the twentieth century. Michael Bentley in his review of historiography—*Modernizing England's Past English Historiography in the Age of Modernism, 1870–1970* (Cambridge, 2006)—is unclear when it ended: 1890s, 1914–18 or 1931.

²⁷ See W.E. Hume-Williams, *A Short History of the Irish Parliament from 1782/1800* (London, 1879), preface; it also led to anachronisms—for example, to J. Roderick O'Flanagan in, *Annals, Anecdotes, Traits, and Traditions of the Irish Parliaments, 1172 to 1800* (Dublin, 1895), p.41, supporters of Sir John Everard for the Speakership in 1613 are 'the Nationalists'.

²⁸ Thomas Davis, *The Patriot Parliament of 1689*, [1st edition: Dublin, 1843] (3rd edition, with introduction by Charles Gavan Duffy: London, 1893), p.xciii

which subsequent Irish parliaments could be measured and found wanting.²⁹ Using the surviving (and hostile) contemporary evidence he produced a positive account of what had been dismissed from the 1690s as a 'pretended parliament'.³⁰ Davis attached particular importance to the act declaring that the English parliament could not legislate for Ireland. By Davis' tests it was not until the constitutional changes of 1782—with the virtual removal of Poyning's Law³¹—that Ireland had 'another Parliament to be proud of'.³² He saw the 1689 parliament as pointing the direction and providing the programme for the following century. For him Molyneux's *Case of Ireland* was published within ten years of it and had been influenced by the 1689 parliament's declaration of legislative independence.³³ (There is no direct evidence to support him in this contention.) Davis' approach marked out the pitch on which two teams—unionists and home rulers/nationalists—carried out the academic engagement with the Irish parliament for the next century with its emphasis on 1782 and the following 18 years, given life by better accounts of debates in the final quarter of the century. Protestant nationalists found it easy to follow Davis. J.G. Swift MacNeill, MP and Professor of Constitutional Law at King's Inns, Dublin, writing in the 1880s, viewed the 'Irish Revolution of 1782' as Ireland's 1688 and the period from 1690 to 1782 as a struggle to overcome the principles of the Stuarts, now championed by the English ministry.³⁴ MacNeill's *The Irish Parliament* concentrated on constitutional issues and the oratory of the *great* men in parliament. Detailed administrative arrangements and the everyday business of the House were below his sight-line. The point of his work was that the Irish parliament was capable of evolving into a body that not only could produce a national administration but also deliver Catholic emancipation.³⁵ A restored legislature would pick up the baton dropped in 1800.

From the unionist perspective, James Whiteside, MP for Dublin University and a former attorney general, in *The Life and Death of the Irish Parliament* argued that the turning point came with the

²⁹ Davis, *Patriot Parliament*, p.40; for a more critical account see, Eoin Kinsella, "'Dividing the bear's skin': Irish Catholics and Land in the Late Stuart Monarchy", 1683-9, in Dennehy, *Restoration Ireland*, pp.164ff; the contemporary material available shows a legislature with similarities to later Irish parliaments—with factions and threats to withhold supply if James II refused to agree to alter the land settlement.

³⁰ *CJ(II)*, pp.24, 26ff

³¹ John Bergin, 'Irish Legislative Procedure After the Williamite Revolution: The Operation of Poyning's Law, 1692–1705', Ph.D. thesis (University College Dublin, 2005), p.5

³² Davis, *Patriot Parliament*, p.xciii

³³ Davis, *Patriot Parliament*, p.139

³⁴ J.G. Swift MacNeill, *The Irish Parliament: What it Was, and What it Did* (London, 1885), pp.vii-ix

³⁵ MacNeill, *Irish Parliament*, pp.94-95

1788–89 Regency Crisis when the parliament attempted to act constitutionally in a separate manner from Great Britain.³⁶ He painted a parliament out of touch in a dangerous world by the end of the 1790s, when the stark choice was separation from, or incorporation with, Great Britain.³⁷ He focussed on the orators, especially the lawyers, and the arguments deployed in the Commons on the constitutional issues. With J.A. Froude, a less successful and perhaps more frustrated politician, unionism spilled over in superiority and racism. Writing a decade after Whiteside he viewed the eighteenth-century Irish parliament as a failure and opined: 'Parliamentary governments ... are suited well for people who understand their own affairs, and do not need to be interfered with; for others such governments are not suited at all'.³⁸ Froude's was a nightmare vision of a dysfunctional institution leading to separation and independence. As Bentley argues, for Whig historians such as Froude, if Great Britain could not hold on to its oldest colony (Ireland) their view of imperial progress would be undermined.³⁹

W.E.H. Lecky—another MP—responded to Froude, and his moderation and fidelity to the evidence had greater and longer resonance.⁴⁰ In his view the parliament was not bound to fail but was, until 1782, stunted and a shadow of her English sister—with only a third of the revenue of the country within its control, hedged in by Poynings' Law and with 'no Act obliging Members of parliament who accepted places or pensions under the Crown to vacate their seats'.⁴¹ As L.P. Curtis noted in 1972, Lecky propounded a view of the institutions of the eighteenth century derived from Edmund Burke, which admired the English people for their ability to adapt old institutions to new needs, and he argued that a country's institutions preserved 'the sense of its organic unity, its essential connection with the past'.⁴² But, whereas the polemical Froude's partisan perspective is obvious, Lecky's 'pseudo-detachment is deceptive'. For Lecky 'faith in property ownership [is] the

³⁶ Whiteside is not original: Lord Macaulay had made a similar point in a speech on 6 Feb 1833 against the repeal of the union, *The Miscellaneous Writings and Speeches of Lord Macaulay*, 4 vols. (London, 1860), (IV), pp.74ff.

³⁷ James Whiteside, *Life and Death of the Irish Parliament* (Dublin, 1864), pp.168, 99

³⁸ J.A. Froude, *The English in Ireland in the Eighteenth Century*, 3 vols. (London, 1872, 1874, 1882); (III), p.559

³⁹ Bentley, *Modernizing*, p.75

⁴⁰ Jim Smyth, review of 'McCartney Donal, W.E.H. Lecky', Lecky, historian and politician, 1838–1903' (Dublin, 1994), *Historical Journal*, 38 (1995), pp.253-54

⁴¹ W.E.H. Lecky, *A History of Ireland in the Eighteenth Century*, 5 vols. (London, 1892), (II), p.53; see pp.130ff below.

⁴² W.E.H. Lecky, *A History of Ireland in the Eighteenth Century: abridged and with an introduction by L.P. Curtis Jr.* (Chicago, 1972), p.xliv

anchor of social stability and the ballast of responsible political leadership⁴³ and to him the Irish Commons was the 'flower of the landlord class'.⁴⁴ The Leckyan view begs the bigger question whether Ireland in the eighteenth century had organic unity and, in particular, whether the Irish parliament was an expression of, or path to, that unity.⁴⁵ What the 1689 parliament had attempted for the Old English,⁴⁶ the parliaments from the 1692 did for the New English (or Anglo-Irish).⁴⁷

As others have noted, Lecky's approach to the eighteenth century was teleological⁴⁸ allowing him to emphasise the prospect of greater national coherence as the penal laws began to be reversed and an increase in the parliament's legislative autonomy after 1782. Lecky concentrated on the last third of the century leaving the years from 1692 an overture to 1782 and the drama that lasted until the end of the century. As Hayton has noted, Froude's and Lecky's works together:

produced two different kinds of parliamentary history: on the one hand a straightforward (and rather old-fashioned) account of constitutional development, charting the rise of the Irish parliament through a process of (Irish) challenge and (British) response, resulting in the gradual expansion of claims for autonomy; on the other, a high-political narrative, explaining the way in which successive parliaments were managed, concentrating on the policies of successive viceroys... In both cases the story was structured through a succession of crises in Anglo-Irish relations.⁴⁹

To twentieth-century historians from the nationalist and republican tradition, the Irish parliament was a charade. Joseph Lee writing in 1973 dismissed *Grattan's parliament* (the post-1782 parliament) as economically backward-looking and sectarian to its core, before reaching the hyperbolic conclusion that it was 'the bloodiest repressive institution in modern Irish history'.⁵⁰ Against this background, it is not surprising that there has been little appetite to examine how the parliament functioned, how it carried out its day-to-day business or how its procedures developed.

Historians—both *unionist* and *nationalist* in outlook—with their focus on the constitutional position of Ireland have not scrutinised the Porritts' view: to the former it was self-evident that the Irish

⁴³ Smyth, review of 'W.E.H. Lecky', p.254

⁴⁴ Lecky, *History of England*(VI), p.443

⁴⁵ See Linda Colley, *Britons: Forging the Nation 1707–1837* (Yale, 2009), pp.49-52.

⁴⁶ Descendants of the Anglo-Norman, English and Welsh families that came to Ireland from the end of the twelfth century; most were Catholic.

⁴⁷ English (and Welsh) Protestants and their descendants who came to Ireland from the end of the sixteenth century.

⁴⁸ Hayton, *Long Apprenticeship*, p.2

⁴⁹ Hayton, *Long Apprenticeship*, p.3

⁵⁰ Brian Farrell, *The Irish Parliamentary Tradition* (Dublin, 1973), p.159

institution should take Westminster as a model;⁵¹ and to the latter it was an import that failed to live up to its own principles or was an alien irrelevance. The Porritts were more detached from contemporary Irish politics and were familiar with Westminster and had a keen eye for highlighting its procedures in the Irish parliament.⁵² Their work was, however, firmly grounded in the nineteenth-century approach to parliamentary history. For them the contemporary House of Commons was the exemplar and parliamentary history was a journey culminating in the reforms that started in the 1820s. They restricted themselves to the study of what J.C.D. Clark has noted in the context of the Westminster parliament⁵³ was the 'old corruption' and the justification for the reform that followed. For them the Irish parliament was an extreme example of what needed to be reformed and the calamitous consequence of the absence of reform.

In the mid-twentieth century the work of historians investigating the operation of the Westminster Commons began to affect the study of the Irish parliament. It took time because, with acknowledgement to Burke, the Irish parliament was no longer a living institution: none of its distinctive procedures and practices⁵⁴ entered the Westminster Commons in 1801. Irish parliamentary history has had two fissures—1800 and 1919/22—and neither of the two legislatures that emerged in 1922 had an umbilical or physical link to College Green. In contrast, the Westminster parliament was seen as a mature, thriving institution governed by procedures dating from the thirteenth century and bolted to its history with precedents and ritual and in the twentieth century included parliamentarians working in a building that displayed self-consciously its own history. The History of Parliament Trust set up in England in the 1930s was presided over by serving politicians and had, as Johnston-Liik has pointed out, an objective to educate MPs in the traditions of parliamentary democracy and to alert the expanded electorate to its democratic duties

⁵¹ For example, Falkiner, observed that: 'In general it may be pretty confidently predicated of any institution or usage introduced into Ireland ... is likely to present a more or less perfect copy of an English model. This is pre-eminently true of the Parliamentary institutions of Ireland, which were fashioned with careful regard to English precedent, in almost every particular' (C. Litton Falkiner, *Essays Relating to Ireland Biographical Historical and Topographical* (London, 1909), p.202).

⁵² Edward Porritt was an English journalist with an academic career as a political historian in the USA; *New York Times*, 10 Oct 1921. Annie Porritt was also born in England and moved to the USA; *Five Colleges Archives and Manuscript Collection*.

⁵³ J.C.D. Clark, *English Society 1660–1832* (Cambridge, 2000), pp.12, 42, 503

⁵⁴ One measure is the source of precedents. No Irish precedents are cited in the first edition of Thomas Erskine May, *The Constitutional History of England since the Accession of George III 1760–1860*, 3 vols. (London, [5th edition] 1875).

and responsibilities.⁵⁵ It also fitted within a Burkeian view as it aimed to show how the Commons had been able to respond to 'the needs of an ever-changing national society, and saved that society from the convulsions and revolutions which still disturb realms not yet inured to Parliamentary language'.⁵⁶ There was no such incentive in Ireland, where the lack of continuity meant that views polarised around the fractures and the lessons from history were those of injustices, fears and warnings, not the veneration of institutions, precedents and incremental change. Ironically, the fissures from the seventeenth century kept Irish history relevant to contemporary political debate, albeit in a populist and self-serving form.

In the early twentieth century there was a shift in the English historical approach: method and analysis of evidence came to matter more than concepts and style.⁵⁷ *Modern* methods broke the Whig mythologies of parliamentary history.⁵⁸ In 1964 the History of Parliament Trust published the first instalment of *The History of Parliament* covering the British House of Commons from 1754 to 1790. The project had been re-started when 'both politicians and academics thought largely in biographical terms'⁵⁹ and the prosopographical approach of Sir Lewis Namier was ascendant.⁶⁰ The publication contained 1,966 biographical articles and 314 constituency articles with an introductory survey.⁶¹ In 1963 Edith Johnston published *Great Britain and Ireland, 1760–1800: a study in political administration*, combining Namierite analysis of the Irish parliament (but at this stage without the biographies) with a revised Lecky approach influenced by J.C. Beckett, a 'revisionist' historian working at Queen's University Belfast from 1940s, who 'regarded the eighteenth century as a golden age, the heyday of his beloved Anglo-Irish caste'.⁶² The focus of Johnston's work was still the period from the 1770s and the tone is intermittently that of an irritated, liberal Protestant. She concludes:

⁵⁵ Edith M. Johnston, 'Managing an Inheritance: Colonel J.C. Wedgwood, the History and the Lost History of the Irish Parliament', *Proceedings of the Royal Irish Academy*, vol. 89C (1989), pp.171-72

⁵⁶ *Times Literary Supplement*, 13 Oct 1932, quoted by M.J. Daunt, 'Virtual Representation', *Representation: The History of Parliament on Cd-Rom*, *Past and Present*, no. 167 (May 2000), pp.239-40

⁵⁷ Bentley, *Modernizing*, pp.209, 38

⁵⁸ Bentley, *Modernizing*, pp.115, 120, 143

⁵⁹ Johnston, 'Managing an Inheritance', p.173

⁶⁰ James Smyth, 'Lewis Namier, Herbert Butterfield and Edmund Burke', *Journal for Eighteenth-Century Studies*, vol. 35 No. 3 (2012), pp.381-82

⁶¹ HoP website, accessed 24 Jul 2012; HoP website <http://www.historyofparliamentonline.org/about/publications/1754-1790>, accessed 19 Nov 2016

⁶² Alvin Jackson 'J.C. Beckett: Politics, Faith, Scholarship', *Irish Historical Studies*, vol. 33, no. 130 (Nov 2002), p.146

If the 'ascendancy' had widened the franchise in 1784, and thus placed the House of Commons upon a more liberal basis, a national body might in course of time have been welded together, and an Irish nation, inclusive of all classes and creeds might gradually have emerged. [On the other hand it might have produced] the complete collapse of the system of government by further divorcing the legislature from the executive.⁶³

Four decades later Johnston produced the Irish equivalent of the biographical work of the History of Parliament Trust, *History of the Irish Parliament 1692–1800*, with its funding coming from a 'patchwork of annual, often small grants'.⁶⁴ The multi-volume *HIP* has the benefit of being comprehensive for the period 1692–1800; although primarily a biographical dictionary, it has useful sections, including one on the legislation produced by the Irish parliament. While it is invaluable to the study of the Irish Commons, it has limitations, errors and omissions. It was an offshoot from the earlier volumes of *The History of Parliament*, with the result that its biographies lack the depth and prescience of more recent volumes of the *HoP* and it has little to say on procedure, statistical analysis of business or how the institution transacted its everyday business.⁶⁵ The Namierite approach had the attraction that it could easily be applied to the Members of the Irish parliament. From at least Tudor times men had sat in both the Dublin and Westminster parliaments and were related, shared a similar education and creed; many knew each other and had the same interests and approaches. As men of property they generated records that historians could interrogate. As Daunton has pointed out, with his concentration on biographies, Namier missed the way in which MPs were expected to work for their constituents 'by seeking improvement bills for new bridges or turnpikes, and by keeping a close watch on the impact of customs and excise duties on the economy of the area'.⁶⁶ The interests of other historians of the Westminster parliament were not so applicable to Ireland—for example, Neale on the operation of the Puritan party in parliament,⁶⁷ Elton on the development of legislative competence⁶⁸ and Russell's view that parliaments reflected divisions among the court factions.⁶⁹ There are several reasons. First, Irish parliaments met less frequently than those in England and the source material is less plentiful. Second, constitutionally

⁶³ Edith Mary Johnston, *Great Britain and Ireland, 1760–1800: a study in political administration* (Edinburgh, 1963), pp.270–71

⁶⁴ *HIP*(I), p.2, Johnston, 'Managing an Inheritance', p.181

⁶⁵ Work for the *HIP* started in the 1970s; Johnston, 'Managing an Inheritance', pp.172, 185

⁶⁶ Daunton, 'Virtual Representation', pp.241, 251

⁶⁷ J.E. Neale, *Elizabeth I and her Parliaments, 1559–1581* (London, 1953), *Elizabeth I and her Parliaments, 1584–1601* (London, 1957) and *The Elizabethan House of Commons* (London, 1949)

⁶⁸ G.R. Elton, *The Tudor Constitution* (Cambridge, 1960), pp.233ff

⁶⁹ Conrad Russell, *Parliaments and English Politics 1621–1629* (Oxford, 1979)

the Irish parliament was regulated by Poynings' Law. Third, Irish parliaments had neither the importance nor the same preoccupations as those sitting at Westminster. The *modernist* examination of Irish parliamentary history was left to the Leckyans using Namierite tools as historians opened up tracts of Irish history from the early medieval onwards left undisturbed by nineteenth-century historians. Like the Porritts, the benchmark for the Leckyans was Westminster.

From the 1970s the operation of the Irish parliament started to be examined by historians working on eighteenth-century Ireland.⁷⁰ From the 1980s this gathered pace with Hayton looking across the field;⁷¹ C.I. McGrath and Eoin Magennis have fully described the context and development of supply legislation, revenue and appropriation;⁷² James Kelly and John Bergin did the same for the process by which statute law was made;⁷³ and S.J. Connolly and Ian McBride on political ideas and the place of the parliament in what would in the nineteenth century be called society.⁷⁴ These works have undoubtedly taken the study of Ireland in the eighteenth century, especially the early part of the century, to a new level based on an examination of the evidence. Irish historiography has travelled a considerable distance since 1967 when Sir Herbert Butterfield described its unusually fragmented character.⁷⁵ As Patrick Walsh comments: 'The products of this sustained research activity have allowed a more nuanced picture of eighteenth-century Ireland to appear, which has done much to revise earlier dominant frameworks'.⁷⁶ As noted, there are still debates about whether Ireland in the eighteenth century was a composite *ancien régime* state or *modern* and colonial. There are also gaps and this thesis aims to start to close one.

1.3 This thesis

The study of the practice and procedure of the Irish House of Commons is still dominated by the century-old work of the Porritts. There is no Irish equivalent of P.D.G. Thomas on the eighteenth-

⁷⁰ Starting with Simms (see bibliography).

⁷¹ Hayton, *Long Apprenticeship*, pp.8-15

⁷² C.I. McGrath, *Irish Constitution* and C.I. McGrath, 'Parliamentary Additional Supply: the development and use of regular short-term taxation, 1692–1716' and Eoin Magennis, 'Coal, Corn and Canals: the dispersal of public moneys, 1695–1772', in Hayton, *Long Apprenticeship*, pp.27-53, 71-86

⁷³ Kelly, *Poynings' Law*, and 'Monitoring the Constitution: the operation of Poynings' Law in the 1760s', in Hayton, *Long Apprenticeship*, pp.87-106; John Bergin, 'Irish Legislative Procedure', and 'Irish Private Divorce Bills Acts of the Eighteenth Century', in James Kelly, John McCafferty and C.I. McGrath (eds.), *People, Politics and Power: essays on Irish history 1660–1850: in honour of James I. McGuire* (Dublin, 2009), pp.94-12

⁷⁴ S.J. Connolly, *Divided Kingdom: Ireland 1630–1800* (Oxford, 2008) and *Religion, Law and Power: the making of Protestant Ireland* (Oxford, 1992), Ian McBride, *Eighteenth Century Ireland: the Isle of Slaves* (Dublin, 2009)

⁷⁵ Sir Herbert Butterfield, "Eighteenth-century Ireland" in "Thirty Years' Work in Irish History", *Irish Historical Studies*, vol. xv (1966-7), pp 376-90

century Westminster House of Commons, Orlo Cyprian Williams on clerks in parliament or Julian Hoppit on failed legislation.⁷⁷ This thesis aims to draw on, and apply some parts of, their work to the operation of the Irish Commons, to consider whether the Porritts' view of the that the only direction was towards Westminster is accurate in appearance and substance. The Porritts were of the view that the only significant exception from the procedure at Westminster was, until 1782, Poynings' Law and that from the Parliament of 1568-71 until the Union the Irish House of Commons was

slowly but continuously adopting the orders and usages of Westminster; and, except for a single variation in procedure which made possible a discussion and division on the general principle of a bill after it had reached committee, and for a usage peculiar to Ireland, in accordance with which a commoner succeeding to a peerage or elevated to the peerage was "graced" to the bar of the Lords, it is not possible to discover in the Irish Journals any procedure which had not its origin at Westminster. From 1568, when the Speaker appealed for assistance, advice, and counsel in the ordering of procedure to such members of the House as were acquainted with the order of Parliament in England, until 1795, when even the type used in printing the Journals was ordered to be of the same fount as that used for the Journals of the House of Commons of Great Britain, the Irish House of Commons, as regards its organisation and procedure, was being made a replica of the House of Commons at Westminster.⁷⁸

Poynings' Law provided that no Irish parliament could be held without the consent of the English king confirmed by the king's lord lieutenant and Privy Council, who were to certify the 'causes and considerations' for calling a parliament and 'all such acts as to them seemeth should pass in the same Parliament'. Only after a licence to hold the parliament was issued by the king in Council under the great seal of England and bills sent from England could the Irish parliament meet.⁷⁹ The effect of Poynings' Law was that, once a bill had been approved by the king and Council in England, the Irish parliament could not amend it. The consequence was that the Westminster bill procedures, which allowed bills to be amended in committee or at report and third reading, were rendered purposeless. Without the power to amend a bill each Irish House could only reject or accept it as presented.

⁷⁶ Patrick Walsh, 'The Fiscal State in Ireland, 1691-1769', *Historical Journal*, vol. 56, no. 3 (2013), p.631

⁷⁷ P.D.G. Thomas, *The House of Commons in the Eighteenth Century* (Oxford, 1971), Orlo Cyprian Williams, *The Clerical Organization of the House of Commons 1661–1850* (Oxford, 1954), Julian Hoppit, *Failed legislation, 1660–1800: extracted from the Commons and Lords Journals* (London, 1997)

⁷⁸ Porritts, *Unreformed House(II)*, p.404 ; see also Kelly, *Poynings' Law*, p.1.

⁷⁹ Poynings' Law is the name given to a statute enacted by the Irish Parliament during its 1494-95 session: 10 Henry VII c.4 [Irish Statutes numbering]. The rigidity of the original 1494 statute was eased by an explanatory act, 3 & 4 Philip and Mary I, c. 4, which allowed additional acts to be transmitted to and from England by the same process after parliament had met. See Kelly, *Poynings' Law*, p.1 and Bergin, 'Irish Legislative Procedure', p.1.

The Porritts contended that but for Poyning's Law the Irish parliament would have been an exact copy of Westminster. However, Poyning's Law affected the development of the Irish parliament for nearly 300 years. In addition, there were also other influences in play. As Coleman Dennehy notes for the seventeenth century, there were two forces pulling on the development of the Irish parliament: the Westminster parliament and Irish political requirements. Taking Westminster as the centre of gravity these may be seen as centripetal and centrifugal forces. The latter include Ireland's political and distinct confessional structure, the Irish Commons' awareness of its own history and precedents as well as what Robinson and Acemoglu call the process of institutional drift. The centripetal forces came from political control from England and political and procedural developments in Whitehall and Westminster. Poyning's Law sat squarely within the centripetal but its effects were mitigated, from the seventeenth century, when a system of draft legislation emerged, the heads of bill procedure, by which a House drafted a bill that it presented to the lord lieutenant for transmission and approval to meet the requirements of Poyning's Law. The consequence was significant institutional divergence from the Westminster model. Review by the Irish and English (and after 1707 British) Privy Councils was not a formality as legislation was frequently amended and rejected. The latter came to operate as a third chamber. Bills transmitted back from London could not be amended in the Irish parliament. The intrusion of the London Privy Council both symbolised and stimulated a tension at the heart of politics in Dublin: the power and requirements of Whitehall.

The constitutional and parliamentary changes that occurred in England after 1688 resonated in Ireland as well as Scotland. While in Ireland the shock of the 1689–91 war underlined the dependence of the Protestants on England, this realisation sat alongside a growing *patriot* self-awareness—or insecure, self-interest—and comprehension of the potential for political influence, if not control, that having a functioning, effective parliament operating along the Westminster model offered.

As was case in Scotland, the development of the Irish House of Commons took time to absorb changes and settle. The years after 1692 show an institution changing, being tested—externally by the Government and internally with factional disputes culminating in the 1713 session—and being consolidated into a body that served the ends of the administration and its Members. Following the abortive session of 1692, a political compromise was found by which the Commons exercised

extensive control over supply, which financed the civil and military establishments in Ireland.⁸⁰ It is striking that, in comparison to the 21 years after 1692, the Commons of the 1720s was a settled institution. To some extent this is reflected in the coverage of this thesis with a greater focus on examples from 1692 to 1713 as improvisations and experimentation and the testing of the system during the 'rage of partly' spurred the development of parliamentary procedures and methods of carrying out business. The end date of 1730 was chosen as the end of the decade, the end of lord Carteret's lord lieutenancy and was shortly after the deaths of several key figures, who had been active since the 1690s: Speakers, Alan Brodrick (Earl of Midleton) and William Conolly, and William King, Archbishop of Dublin.

This thesis aims to examine the daily operation and the procedures of the Commons and how and why they changed. The main source and starting point is the daily record of the Commons. Every entry in the Commons Journals from 1692 to 1730 has been examined. While these have been frequently and extensively used by historians, they have mostly been mined from the perspective of a particular subject such as supply. Entries were categorised, certain types counted, procedurally significant entries examined in detail and a sample compared with the Westminster Journals. Where data were sufficient, statistical analyses have been attempted. In addition, contemporary printed and manuscript records were examined both to establish the background and context to the entries in the Journals as well as the operation of the Commons. In contrast, however, to P.D.G. Thomas's work on Westminster, there is only one parliamentary diary—that of Sir John Perceval covering part of the 1711 and 1713 sessions.⁸¹ This can be supplemented with accounts of events in the House recorded in correspondence and other sources. Although many are firsthand accounts of proceedings in the chamber, they tend to focus on the dramatic event of interest to the government in London rather than the daily grind of business. The material examined was published or is in manuscripts available in London, particularly that held by the British Library and in the State Papers in the National Archives of the United Kingdom. While material is available in other repositories in Britain and Ireland that may have amplified some of his

⁸⁰ This arrangement had the advantage of financing troops stationed in Ireland to avoid the prohibition on standing armies in England. Continuous refusal of supply would have made the Irish parliament redundant with the government falling back on enacting supply legislation at Westminster or using the 'Strafford solution' of ruling through orders in council. Union would not only have removed control of taxation to London but also the effective control over the land settlement, economic development and the penal laws, areas where Irish Protestants feared Westminster would put England's interests ahead of theirs.

analysis, the sources used provide sufficient foundation for the conclusions. Case studies have been used to illustrate procedures and to draw out points of broader application.

Adding to contemporary records the *Irish Legislative Database*⁸² and the *HIP* provide much material. The research has been supplemented with a review of the secondary material listed in the bibliography. This thesis sets out to use the approaches and methodologies employed in the study of other eighteenth-century legislatures, especially Westminster, and by historians working on other aspects of eighteenth-century Irish history to examine the development and operation of the Irish Commons from 1692 to 1730.

The chapters are organised around the functions and operations of a legislature.

Chapter 2 focuses on the building the Irish parliament sat in, Chichester House, and the staff and administrative organisation of the Commons.

Chapter 3 reviews the corporate identity and functions of the Commons. It examines a sample of Members' backgrounds and covers parliamentary elections, how the Commons managed its exclusive cognisance (or privileges) and how it treated precedents. The chapter reviews the development of procedures by the Commons from 1692 to 1730, including how Westminster's procedures were absorbed.

Chapter 4 focuses on the business carried on within the House, the procedures that applied and how it was managed.

Although not brought together as a free-standing chapter, at several points the confessional dimension of the operation of the Commons is examined. Specifically, the extent to which the Commons as an Anglo-Irish institution framed and operated its own procedures in a sectarian manner that imitated the penal laws it enacted.

⁸¹ [Sir John Perceval], 'An Irish Parliamentary Diary from the Reign of Queen Anne', D.W. Hayton (ed.), *Analecta Hibernica*, vol. XXX (1982), pp.99-149).

⁸² *Irish Legislation Database*, Queen's University Belfast: <http://www.qub.ac.uk/ild/?func=help§ion=links>

2 The administrative organisation of the House of Commons

This chapter examines two areas. First, it assembles the evidence about the building, Chichester House in which the Irish parliament sat in from the 1660s to 1728. It examines what is known about the physical arrangements and how it may have been used. While it enabled the same parliamentary procedures and rituals as Westminster to be performed, Chichester House was no Palace of Westminster, beehive of multi-functions. It had a single function: the meeting place of the Irish parliament met. The chapter also examines the replacement of Chichester House with what has struck historians as a remarkably self-confident building. Second, the chapter considers the staff who worked in Chichester House, to meet the clerical and administrative demands of the Commons. It examines their backgrounds and their functions and methods of work, including the production of the House's records and publications.

2.1 Chichester House

Chichester House was used by the Irish parliament from 1661 to 1728 (excluding 1689). The administration had shown a commitment to the building and the institution when in April 1673 it entered a 99-year lease with John Parry, bishop of Ossory, 'for the use of the two Houses of parliament'.¹ The earlier parliaments of James I and Charles I had met in Dublin Castle² and, briefly, in Dublin's municipal building, the Tholsel. The 1689 parliament had met in the King's Inns, a former Dominican convent near the present Four Courts.³ In contrast to the English Commons, which met in St. Stephen's Chapel at Westminster from about 1547,⁴ Chichester House carried none of the weight of tradition of continuously meeting in such a venue.⁵ Nor does it appear that the buildings left an imprint on operation or procedure as St. Stephen's did on the English House

¹ *CJI(I)*, p.ccv; £180 annual rent paid to the bishop. The rent continued to be paid by the Treasury to Parry's successor in title, his nephew, Benjamin Parry MP (*CTB*, vol. 23 (1710)—29 Dec 1709).

² Dublin Castle, the seat of the Irish administration presented problems: maintaining the confidentiality of deliberations; it was noisy and overcrowded; and it may not have had adequate accommodation for committee meetings (*CJI(I)*, pp.13-15, 47).

³ The reason for this choice of venue is unclear. J.G. Simms, *War and Politics in Ireland 1649–1730* (London, 1986), p.69, suggests Chichester House was in a poor state of repair, presumably on the basis later reports—see below.

⁴ Thomas, *Commons*, p.1; except when it met in Oxford.

⁵ Chichester House may originally have been a hospital; subsequently it was used as offices by Sir Arthur Chichester, lord deputy 1604-15; in 1641 it was rented a residence and eventually passed to Parry (*HIP(I)*, p.322; Walter Harris, *The History and Antiquities of the City of Dublin* (Dublin, 1766), p.47).

with, for example, the Members sitting opposite each other in the stalls.⁶ Instead, the accommodation requirements of the Irish parliament were derived from its operating needs: as a minimum it required two chambers, with the Commons' chamber having the capacity to hold a maximum of 250 Members,⁷ and accommodation for the Speaker. It was also desirable to have a room for conferences between the Houses, meeting rooms for committees and accommodation for staff.

The 1673 conveyance gives a description of Chichester House as laid out for the Irish parliament at that time:

a large room, wherein the Lords sat; two committee rooms for the Lords on the same floor, a stair-head room, a robe room, a wainscot room at this stair foot, a conference room below stairs, wherein the Commons sat; a passage room leading to the committee room, two committee rooms above stairs for the Commons; the Speaker's room; two rooms below stairs for the Serjeant-at-Arms, three rooms adjoining for the Clerk, two small cellars, a gatehouse next the street, containing five small rooms, a courtyard, with an entry through the House to the backyard, a stable yard, with a range of old buildings containing five rooms, with a coal yard, a stable ... a large garden, with an old banqueting house and ... other rooms.⁸

Although no depiction of Chichester House survives, against which this description can be checked,⁹ a plan apparently of the ground floor of the building—drawn up in 1727 shortly before demolition—does: it is reproduced below at Figure 1.¹⁰ It lacks the detail set out in the earlier description—for instance, it does not show committee rooms, the Speaker's accommodation or the location of the staircase. Moreover, the layout described in 1673 contradicts the 1727 plan (though the answer may be that the internal layout had been altered in the intervening half century): in particular, the 1673 description suggests the two chambers were on different floors whereas the 1727 plan shows them on the same floor. If the 1673 description is accurate, the Commons had three committee rooms on two floors (the Lords had two on the same floor as its chamber). *The Orders and Rules of the House of Lords* dating from 1692 stated that the room, where the Commons and Lords met, was 'usually the conference-chamber below stairs', which corroborates

⁶ Other examples are the tradition of bowing to the altar as MPs arrived and left the chamber, which evolved into bowing to the Speaker, and use of green furnishings, which may have grown from the preponderant liturgical colour in St. Stephen's.

⁷ The total number of MPs was 300 but during this period attendance rarely reached 250 and was frequently much lower (see Appendix 6.19).

⁸ *CJI(II)*, Appendix, p.ccv (Commons report, 1709)

⁹ Francis Place visiting Dublin in 1698/99 preferred to draw St. Andrew's church beside Chichester House.

¹⁰ *HIP(I)*, p.324; Edward McParland, 'Edward Lovett Pearce and the Parliament House in Dublin', *The Burlington Magazine*, vol. CXXXI, no 1031 (Feb 1989), pp.91-92

the 1673 description of activity on two floors.¹¹ Irrespective of these difficulties, both the 1673 description and the 1727 plan indicate that the two Houses were close together, possibly on top of each other, in contrast to Westminster where the Houses were separated by buildings used for other administrative and legal functions.

The 1727 plan includes dimensions which indicate that the Commons was about 6.5 metres wide and 17 metres long.¹² This compares to St. Stephen's at Westminster which was about 10 metres wide and 18 metres long (excluding the lobby) giving a rough equivalence of space per MP.¹³ The 1727 plan also shows that Chichester House was set back about 22 metres from College Green, from which it was approached through a courtyard (13.5 metres wide). This contrasts with the Palace of Westminster which was a jumble of governmental buildings, to which the public had access. The potential to control access was therefore much greater at Chichester House.

¹¹ *LJI(I)*, p.471, no.15 No document examined provides a conclusive answer. Several sources state that Commons 'came up' to the House of Lords—for example, *SP*, 63–354–167(stamped 166) (12 Oct 1692), when Lord Lieutenant Sydney described to Secretary of State Nottingham the opening of the 1692 Parliament but this probably reflects the Westminster 'hierarchical' idiom that the Lords was the *upper* House. Similarly, the *Perceval Diaries*, pp.125, 144, record 'the peers sent [the Commons] down a message to desire a conference immediately in the conference chamber'. On 20 Oct 1707 in an inquiry into the text of a bill a Commons committee reported that it 'went up to the Office of the Clerk of the House of Lords' (*CJI(II)*, p.556).

¹² The written figure for the length may be 47 feet but R Gillespie, 'Describing Dublin: Francis Place's visit, 1698–99', in Adele M. Dalsimer (ed.) *Visualizing Ireland: National Identity and the Pictorial Tradition* (Boston and London, 1993), p.113, takes the chamber as 57 feet (17 metres) by 21 feet (6.5 metres).

¹³ Kathryn M. Ellis, *The Practice and Procedure of the House of Commons 1660–1714*, University of Wales (Aberystwyth) Ph.D. thesis (1993), p.1; the floor area of Westminster House was about 176m²; as the Westminster House had (from 1707) 558 MPs this works out at 0.32m² per MP; the Dublin House's floor space was 108m² and with 300 MPs works out at 0.36m² per MP.

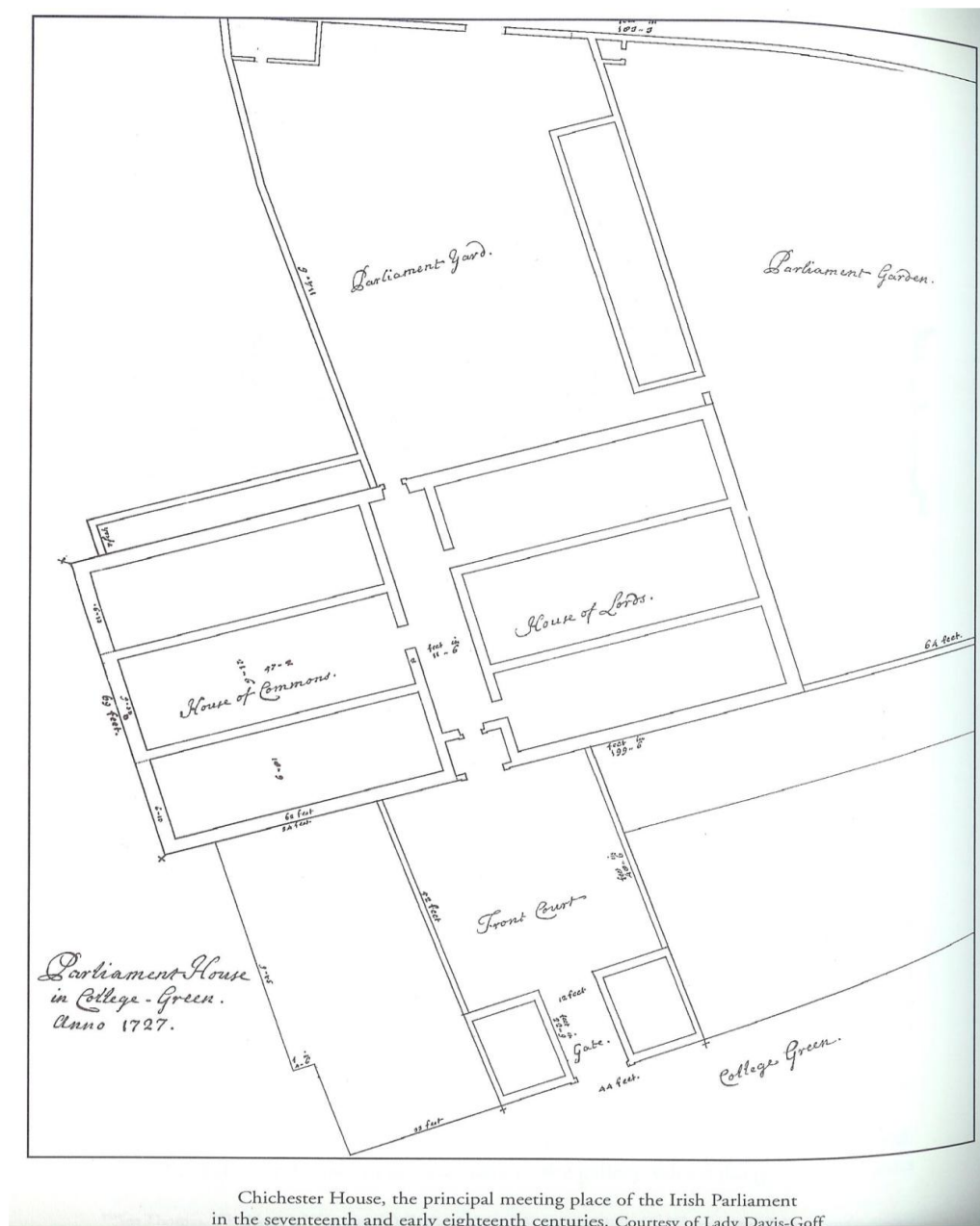


Figure 1 Sketch plan of Chichester House

The Journals and other sources provide additional details about the Commons chamber.

- a) In the 1660s there was a removable bar to which those to be admonished by the Speaker could be brought and the main rooms were decorated, when the House sat, with wall hangings supplied from the wardrobe of Dublin Castle.¹⁴
- b) Members sat on benches.¹⁵

¹⁴ *CJI(I)*, pp.669, 757

¹⁵ SP, 63–363(stamped 135) (Edward Southwell (Chief Secretary 1703-07 and 1710-13 and Secretary of State for Ireland 1702-30) to Nottingham, 4 Nov 1703)

- c) There were clocks in Chichester House, probably in the chambers as, for instance, the House usually had to adjourn at a set time, 4pm.¹⁶
- d) By the end of the century there were references to a gallery, the door to which had its own door-keeper¹⁷ and could, on instruction by the House, be locked to exclude 'strangers'.¹⁸ There appears to have been committee rooms off the gallery.¹⁹
- e) In November 1661 the lords justices gave possession of the stables and 'necessary house' at the rear of Chichester House to the serjeant-at-arms 'for the use and service of the House of Commons'.²⁰
- f) The gatehouse was used by Commons clerks until they were violently ejected by the serjeant-at-arms in 1666.²¹ The dimensions in the 1727 plan indicate that there were probably two rooms at ground level with the three rooms mentioned in the 1673 description at first floor level over the gate; the rooms would have been about four by six metres.

Sir John Perceval records that on the first day of the 1713 session, when summoned to hear the lord lieutenant in the House of Lords 'a great many [MPs] went up, while the greater part remained below for the sake of getting into convenient places, because the House was very much crowded, there being at this time more Members present than were ever remembered'.²² His comment is significant because, as at Westminster, seats were not reserved at this time and possession was occupative and when the business was controversial there was a shortage. It was an accepted parliamentary convention at Westminster that only those Members sitting on benches could participate in debate.²³ At the start of the 1713 session there were at least 260 MPs present.²⁴ The implication is that the seating capacity of the House was below 260.

¹⁶ CTB, vol. 32 (1718) in an entry on 8 May 1718 records for 1717 a payment to 'Walter Bingham, clockmaker, for taking care of the clocks of the House of Lords and House of Commons £7:19:3½'.

¹⁷ CJI(II), p.104 (22 Oct 1695)

¹⁸ CJI(II), p.85 the House ordered keys of doors to be laid on Table; see also pp.85, 251, 602, 653, 697.

¹⁹ The table of fees agreed by the House in 1695 recorded fees belonging to door-keeper attending the gallery and referred to committee meeting in rooms 'belonging to the ... gallery' (CJI(II), p.xx). If the Commons had a gallery and linked committee rooms that may be a pointer to the chamber being on ground floor with accommodation on first floor, which chimes with the 1673 description of committee rooms upstairs.

²⁰ CJI(I), pp.441, 669, 677

²¹ CJI(I), p.746

²² Perceval Diaries, p.125

²³ Ellis, *Practice and Procedure*, pp.13-15

²⁴ See Appendix 6.19.2.

In the 1660s the Commons looked to the administration to manage the upkeep of the building and to pay for provisions such as coal for heating.²⁵ In July 1678 the administration sub-leased the gardens, grounds and yards for 90 years to William Robinson, Surveyor General 1671–1700,²⁶ for an annual rent of only £1 but with a covenant to keep Chichester House in good repair.²⁷ As repairs were financed by the administration the arrangement may have been to establish an obligation on Robinson to carry out repairs. A Commons committee reporting in 1709 found that between 1677 and 1701 the administration had paid him £208 for 'repairs and other works at the Parliament House' but the arrangement failed as it could not establish what portion of the money was for repairs and what for other works such as fitting out Chichester House, which was outside obligations in the lease.²⁸ Similarly, the committee found that £207 paid to Robinson's successor, Thomas Burgh, from 1701 to 1708 could not be disaggregated. It asked Burgh for an estimate for repairs that were needed in 1709, which he costed at £598, to make the building weather proof, and £523, to repair floors, windows and ceilings. He painted a picture of a decrepit building with 'bulged and rotten' walls, eight 'rotten' chimney stacks all in need of rebuilding, a roof frame that needed replacing and 'uneven and patched' floors. The committee considered that, if the building's walls, roof and floor were not repaired, they would stand 'but few years'. It noted that Chichester House was so impaired by the weather that it is not safe for habitation and that the stable and a banqueting House had fallen to the ground.²⁹ The financial abstract,³⁰ appended to the 1709 report, showed when the £207 paid to Burgh from 1700 to 1708 was defrayed (Table 1). There is a pattern: (i) expenditure mostly fell in the years that the parliament sat—in other words little was spent on Chichester House when no parliament met (or during the time that it was used by the forfeited estates commissioners);³¹ and (ii) that half the expenditure was incurred for the 1703

²⁵ *CJI(I)*, pp.441, 465, 677

²⁶ *HIP(VI)*, pp.168-69; Robinson sat in the Commons from 1692 until he fled to England in 1707 in the face of a lawsuit for falsifying clothing accounts of the army.

²⁷ *CJI(II)*, p.ccv

²⁸ *As above*

²⁹ *As above*

³⁰ *CJI(II)*, p.ccviii

³¹ English Act (11 & 12 William III, c.9) placed forfeited lands in the hands of trustees and most were sold by auction. As Simms notes (in T.W. Moody and W.E. Vaughan (eds.), *A New History of Ireland: Eighteenth-Century Ireland 1691–1800* (Oxford, 1986), p.11) the act of resumption 'caused much resentment in Ireland' and this was a 'notable instance of [the English] parliament assuming both executive and legislative power over Irish affairs'. The trustees occupied Chichester House until they completed their work in 1703 and the Irish parliament did not sit again until the sales had finished.

session, that is after the longest period—four years—without a sitting parliament between 1692 and 1730, and presumably after the commissioners had left.

Year	1700	1701	1702	1703	1704	1705	1706	1707	1708
Amount	£0	£3	£0	£103	£1	£17	£0	£81	£2

Table 1 Expenditure on repairs to Chichester House 1700 to 1708

2.2 Replacement of Chichester House

After 1709 the next recorded instance of concern about the state of Chichester House was on 7 August 1719 when the Commons addressed the lord lieutenant asking him to direct Burgh to inspect the state of the building. A report was presented to the House on 29 October, which was referred to a committee of the whole House, but no further progress was recorded.³² The issue re-surfaced on 5 December 1727 when a committee, chaired by Thomas Trotter, was appointed to inspect the state of the building.³³ Its report made on 10 January 1727/8 was published and was referred to the Committee of Supply, which reported the following day with a recommendation that £6,000 be 'granted towards providing materials and building a new Parliament House'. On the following day a committee was appointed, to consider the new Parliament House, and instructed to receive plans 'and to enquire what title the crown has to the ground, whereon the present Parliament House stands'; again chaired by Trotter.³⁴ Progress was rapid. The House of Lords was consulted on 30 April and the Commons accepted without a division Edward Pearce's designs which were laid before the lord lieutenant, who was asked to direct that building work start.³⁵ By June 1728 Pearce was in London arranging for the provision of materials for the building.³⁶

The 1727 report on the state of the building was short but dramatic. There was no examination of the costs of repairs or options. The committee reported that the building was rotten and dangerous and that the offices for staff were too small and it baldly stated that Chichester House 'cannot be repaired without very great expense, so as to stand longer than another session ... and that it

³² *CJ*(III), pp.214, 234 and 237

³³ *CJ*(III), p.477; Hayton classes Trotter as a lieutenant of Speaker Conolly (*Letters of Marmaduke Coghill 1722–1738*, D.W. Hayton (ed.) (Dublin, 2005), p.xv).

³⁴ *CJ*(III), pp.494, 496 and ccclviii

³⁵ *CJ*(III), p.564

³⁶ McParland, 'Pearce', p.92

seems absolutely necessary to build a new House'.³⁷ The report has the feel of the paperwork following a decision already made. How and when that decision was taken is unclear. The architectural historian Edward McParland observes that Speaker Conolly's involvement in the building project is 'obscure' and speculates that the project may have been 'reflationary' and designed to alleviate hardship during economic distress in the 1720s.³⁸ McParland suggests that 'the assertiveness of the new building was as obvious politically as it was architecturally'.³⁹ Whether or not the new building was a delayed rejoinder to Ireland's constitutional inferiority reinforced seven years before by the Declaratory Act of 1720 and a harbinger in stone of the constitutional aspirations that took half a century to achieve is not supported by surviving documentary evidence. Pearce was an MP and he was an architect and well informed about current fashions. Conolly had already employed him on the building of Castletown. The administration supported the project, which may count against the speculation that the new building was a *patriotic* statement of self-assertion. The striking feature is the absence of comment in the surviving records of the period. London was passive and the guardian of English interests, Archbishop Boulter, appears to have been quiet.

The Commons kept a watching brief on the work via a committee which reported favourably on 22 November 1729 and 2 December 1731. Inspecting the building, after the roof and walls had been constructed, it observed:

with the greatest pleasure, an uncommon beauty, order and contrivance in the ... building; and that the same has been carried on with unusual expedition and diligence; that the money expended thereupon has been laid out with the utmost skill and frugality.⁴⁰

There is only point at which criticism emerged. On 11 December 1731 the Commons divided four times on whether payments for the building should be made. The tellers for the Ayes were administration supporters or 'placemen'—William Maynard and Trotter—and those for the Noes, opponents with Tory connections—Sir Richard Meade and Eaton Stannard.⁴¹ The Ayes had conformable majorities, though on one division the opponents managed 62.

³⁷ *CJI*(III), p.ccclviii

³⁸ Edward McParland, *Public Architecture in Ireland 1680–1760* (Yale, 2001), p.187

³⁹ McParland, 'Pearce', p.93

⁴⁰ *CJI*(III), pp.602, ccclxxxv; (IV), pp.32-33

⁴¹ *HIP* biographies

The new building had clear benefits, not least much more space (see Figure 2, which superimposes the foot-print of Chichester House on the plan of the new building). Pearce set out in his memorandum accompanying the plans (which have not survived) his pitch for the commission, which gave prominence to the position of the Speaker and convenience of Members:

[The] House of Commons [is] an octagon.... I have endeavoured ... to give all advantages necessary for such an Assembly, the Chair is free at very near an equal distance from all parties, the Speaker can from thence with very little difficulty see everybody in their seats, and every person who speaks from his seat so as to be heard by the Speaker must be heard by everybody. The bar has also the same advantages, and an evidence in the centre, must be heard equally by everyone. Order and attention is with great difficulty preserved where gentlemen can talk to each other across the floor, or are seated in clusters especially behind the chair, which cannot possibly happen in this situation. The seats are divided into 4 rows employing six sides of the octagon. The chair and bar employ the other two: there are seats only for 280 persons within the body of the House. I was afraid of making the room too large considering how few attend at certain times of the sessions, but the gallery employs no part of the House and consequently does not hang over or cover any part of the seats so that every person in the House may be seen from any part of the gallery....

The rooms are large and of very good proportions. All corridors or passages of communication, free, open, well lighted and on the same floor.⁴²

The memorandum emphasises the design's advantages from the Speaker's perspective and further underlines Conolly's role in the project. It also throws light back on Chichester House indicating that the rooms, if not the chambers, were not on one level, that the gallery overhung the chamber and there was a shortage of space. The new chamber had about a third more floor-space and there was more office accommodation. But some features did not change: there were three committee rooms (as in the 1673 description) and divisions still operated on the basis of one side staying in the chamber while the other went into the lobby (see Figure 3).

⁴² McParland, 'Pearce', pp.99-100

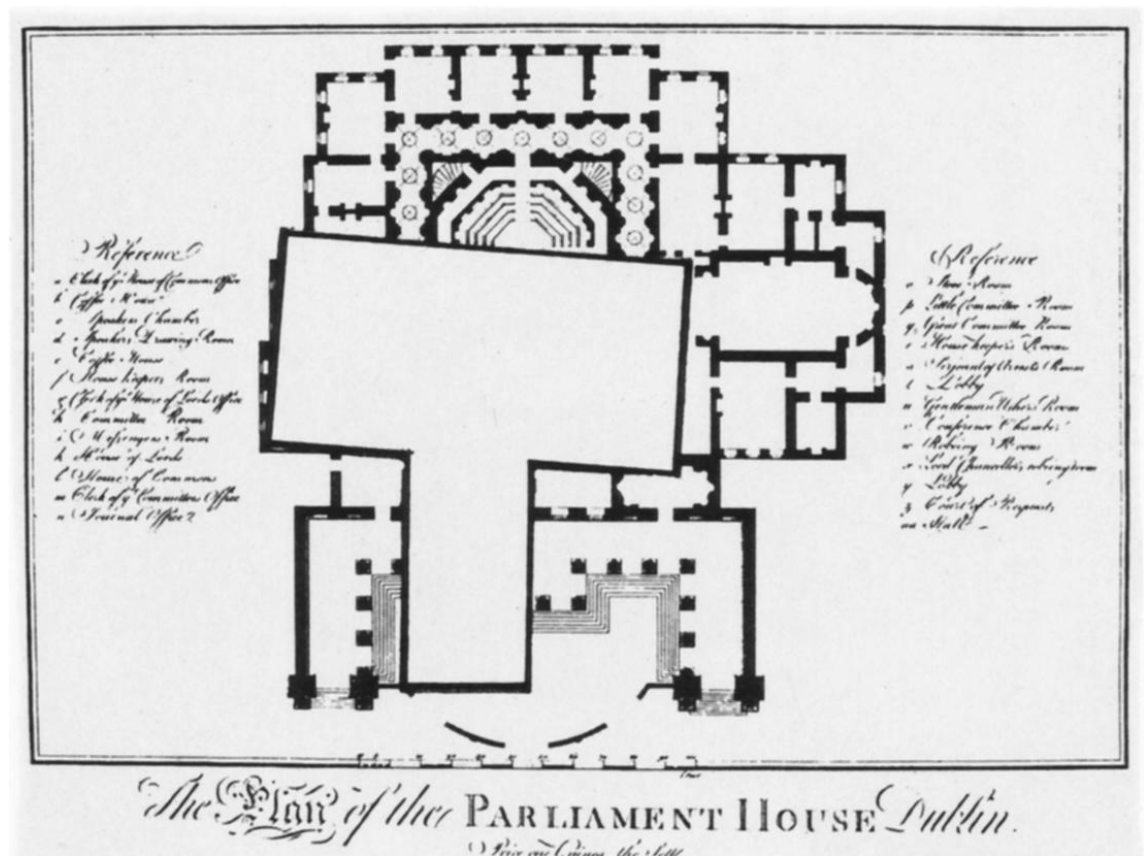


Figure 2 Parliament House, Dublin, with plan of Chichester House superimposed⁴³

⁴³ McParland, 'Pearce', p.93

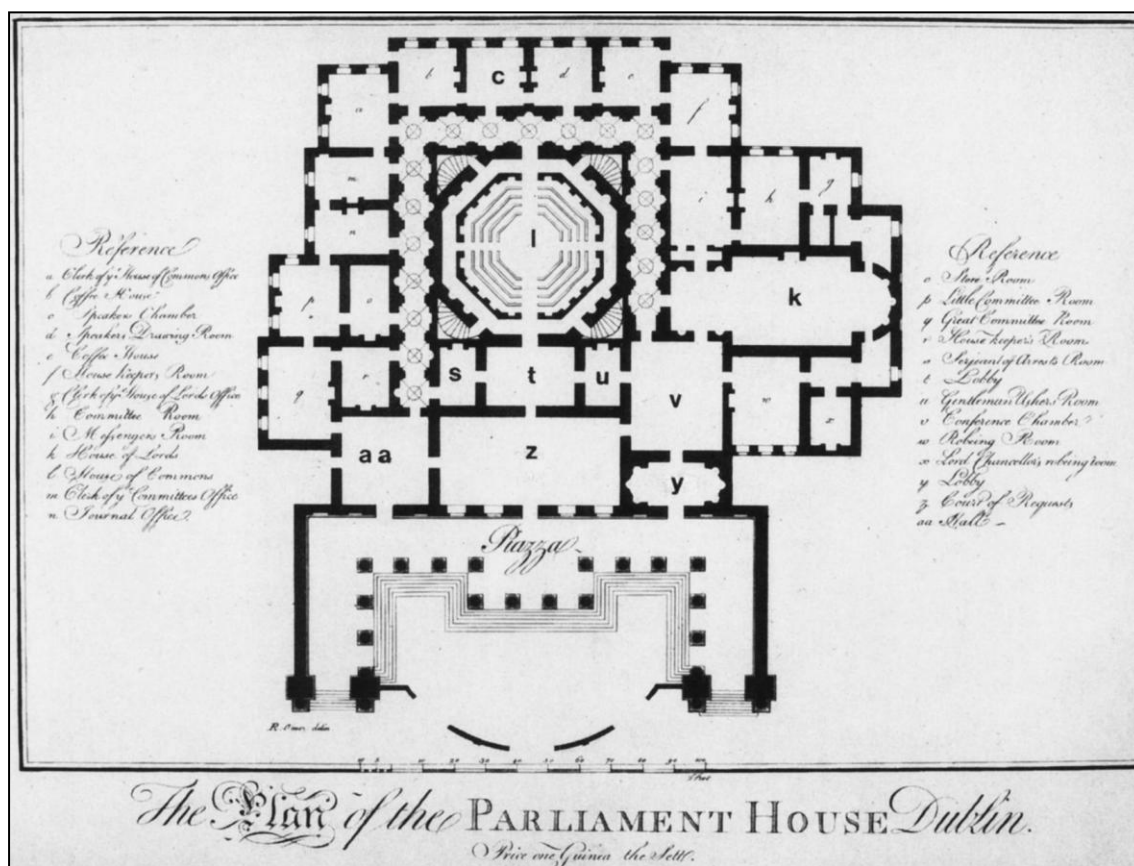


Figure 3 Parliament House, Dublin, engraved ground-floor plan, 1767⁴⁴

2.3 Conclusions on buildings

From 1692 to 1727 the Irish House of Commons sat in Chichester House. The Commons and the Lords sat metaphorically, if not literally, on top of each other. This was not the only contrast with the Palace of Westminster. The building was physically separate from the law courts and executive offices, which were collocated at Westminster. Those attending Chichester House came there for parliamentary business, or to observe the Irish parliament in operation, and access via a single gate-lodge could be controlled. This may have given the Commons an ability to shut itself off and deny access that was not as easily achieved at Westminster. The replacement building followed the old in being a building used exclusively for parliamentary purposes. But, in contrast to Chichester House, the replacement building sat squarely on College Green with an imposing—if not inviting—entrance.

⁴⁴ McParland, 'Pearce', p.92

The main features required for the operation of a Westminster-model legislature were available in Chichester House but the evidence of the layout is contradictory. Notwithstanding the apparently squalid conditions and the impenetrable, and probably inadequate, financial arrangements for the repair of the building that the 1709 report depicted, the Houses continued to use the building for nearly another 20 years—presumably patched and repaired ahead of each session. In the absence of criticism, the project for the replacement parliament building has the appearance of achieving what both Houses wanted. The prosaic interpretation for the project and its design is that it was a replacement and as there was no alternative building a functional building in the current style was commissioned. The absence of criticism may point to the building project being a 'top-down' project run by Speaker Conolly, being well-managed and the final product being an obvious improvement that met nearly everyone's expectations and requirements.

If broader conclusions can be drawn from the erection of the new building, two can be offered. First, by the 1720s the Irish legislature's permanency was assured and when a new building was required it was a purpose-built parliament. Second, the Commons led the project, not the Lords or the administration (as in the seventeenth century). This reflected the predominance of the Commons in parliamentary matters. The building was designed to meet its, and its Speaker's, needs.

2.4 Staff of the House of Commons

The clerical organisation of the Dublin House of Commons copied that of the Westminster House but with some noteworthy differences—it was smaller and some operational arrangements varied. There was a clerk of the House (or more correctly, after 1692, joint clerks), who ensured that the decisions of the House and its committees were recorded. In the early seventeenth century the clerk was responsible for 'reading, writing and engrossing the public bills'.⁴⁵ The clerks and the staff who served the Commons feature periodically in the Journals and in contemporary records—not in the correspondence of ministers between London and Dublin but rather in land transactions, wills and as lawyers drawing up documents. At first sight the documentation indicates they were an Irish equivalent of those men in London who came from, and remained in, a class of administrative middling, remunerated officials. They were integrated into the administrative and

⁴⁵ *CJI(I)*, p.54

civic life of Dublin, with property and business interests in and outside the city. The patterns seen in England in the seventeenth century appeared in Ireland in that and the following century: the clerks purchased and traded patents for lives allowing positions to be sold for profit and to be passed from father to son or to become sinecures with a deputy carrying out the work.⁴⁶ A list, with some biographical information, of clerks and officers who served the Dublin Commons can be found in Appendix 6.4. Analysis of their names indicates that they were mostly New English and on the evidence available conformed to the established church. There were contrasts with officials in London. First, given the irregularity of meetings of the Irish parliament until 1703 and that thereafter it met for only a few months every two years working for the Commons was not a full-time job. Second, Irish patent holders often had extensive links to England. Third, the boundaries of the class were porous and overlapped with the 'gentlemen' who sat in the Commons. Fourth, some operated in conjunction with a patron.

The clerk of the Irish House and an increasing cast of supporting clerks had legal or administrative experience and were drawn from men, many of whom trained in England and worked in the courts in Dublin. A father-and-son team, both called Thomas Tilson, held the patents of clerkship of the Commons from 1680 to 1711. Tilson Sr. was the son of a bishop of Elphin⁴⁷ who had retreated to England after the 1641 war started and died there in 1655. A grandson, George Tilson, and therefore Tilson Sr.'s nephew, was Under-Secretary for the Northern Department from 1710 to 1738 and another nephew, Christopher Tilson, spent 58 years at the Treasury and was an MP at Westminster from 1727–34. Thomas Tilson Sr. entered the Inner Temple (in May 1658) as did Tilson Jr. who studied at Trinity College Dublin and Oxford. Tilson Jr. married in 1708 and had at least six sons. Most were educated at Eton and Cambridge and several trained at Lincoln's Inn or the King's Inns; some settled in Ireland and others in England. This pattern, or elements of it, was repeated with their principal successors, another father-and-son duo called Worthington: the son, Burdett, attended Trinity College and entered the Inner Temple, though the family was not as fecund or climbed as far as the Tilsons in England. Both families operated, and owned land and

⁴⁶ Henry Elsynge, Clerk of the Westminster Commons from 1640, was the son of another Henry Elsynge, who had been Clerk of the Parliaments (Williams, *Clerical Organization*, p.5); William Goldsborough was clerk of the Commons from 1661 to 1678 and was succeeded by his son William, who was clerk to 1683; Paul Jodrell was clerk from 1683 to 1726 (Williams, p.35).

⁴⁷ *Carte 42*, f.633; Henry Tilson was one of Strafford's chaplains, dean of Christ Church Dublin from 1634 and consecrated bishop of Elphin in 1639

property, in England and Ireland.⁴⁸ In 1692 Tilson Sr. also carried out the duties of Usher of the Court of Chancery of Ireland, which would have included financial responsibilities as well as the carriage of records and enrolling of decrees.⁴⁹ Clerks in the courts would have had the skills necessary to be clerks of the Commons: the ability to read and write in English and, to a lesser extent, Latin and French; the ability to take notes of proceedings quickly and accurately; the ability to copy documents accurately; and a knowledge of records, precedents and procedure combined with the ability to give advice.⁵⁰

The appointment of clerk was by letters patent issued by the monarch (as were appointments for the posts of serjeant-at-arms, his deputy and the keeper of the Parliament House). The use of letters patent was significant for Orlo Cyprian Williams who starts his work, *The Clerical Organization of the House of Commons 1661–1850* [in England], by drawing attention to the reinstitution of this method of the appointment of the clerk of the House, William Goldsborough in 1661. Unlike his predecessors since 1649 he was not appointed by the House 'but by letters patent under the seal of a restored king'. Williams argues that this was a turning point: from the medieval, part-time record-keepers to the whole-time servant, master of a 'vastly intricate *corpus* of procedure and the administrative head of an active department'.⁵¹ Williams' view may be over-reliant on hindsight seeking to cut a clear path to later proceduralists such as John Hatsell at the end of the eighteenth century. Greene in *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies 1689–1776* puts forward an alternative analysis seeing royal appointment as a symptom of a push for greater 'imperial' control.⁵²

The first clerk of the Irish House of Commons known to be appointed by patent⁵³ was William Bradley in 1608 and the practice was repeated for his successors. The advantage for the administration was that it ensured a suitably qualified person with acceptable credentials, including confessional, would be appointed. In addition, the sale of the patent generated income. The fact

⁴⁸ *HoP(1715)(II)*, p.469, and see the Appendix 6.4.

⁴⁹ Harrison and Williams, *The Practice of the Court of Chancery*, 2 vols. (Philadelphia, 1807), (I), pp.63-64

⁵⁰ Williams, *Clerical Organization*, pp.10-11 When the Clerk of the House fell ill in 1615, *CJI* recorded 'agreed upon, with the general consent of the whole House, and so *ordered*, ... that Edmond Midhopp, Esq, clerk of the common pleas of his Majesty's Exchequer, should supply the place of the clerk' ((I), p.31).

⁵¹ Williams, *Clerical Organization*, p.1

⁵² J.P. Greene, *The Quest for Power: The Lower Houses of Assembly in the Southern Royal Colonies 1689–1776* (Chapel Hill, 1963), pp.207-19

⁵³ Patents were granted for: (1) life or lives; (2) good behaviour; or (3) during pleasure. Whether there was any difference in practice between these is unclear, though *during pleasure* required re-issue on death of monarch.

that patent holders bought the office for life or lives provided continuity—Philip Ferneley's tenure as clerk from 1628 to 1673 spanned the civil wars and upheaval in the middle of the century.⁵⁴

When the 1692 Commons met the House 'allowed and approved' the patent holders, the Tilsons, with Faustin Cuppaidge as clerk assistant and appointed a committee to examine the precedents for swearing them in.⁵⁵ In 1634 the clerk of the House and his assistant were sworn in before the lord chancellor,⁵⁶ in the manner of clerks in the law courts and in England, and the procedure was followed again in 1692.⁵⁷ They also took the oath provided by English statute 'for abrogating the oath of supremacy in *Ireland*'.⁵⁸ On 26 October 1713 the Tilsons sold their patent for £400 to Thomas Trotter (an MP from 1715) and a partner, Francis Skiddy (deputy town clerk, Dublin), whom Trotter bought out on 5 December 1713 for £250. In 1715 he sold the patent to Bruen and Burdett Worthington⁵⁹ and Isaac Ambrose for £484.⁶⁰ The Tilsons appear to have had no problem functioning during the rise of parties or change of administrations. The reason for selling up may have been that by 1713 Tilson Sr. would have been in his 60s, at least, and Tilson Jr. may have had ambitions elsewhere. The political links of their successors are clearer. Both Trotter and Bruen Worthington were within the orbit of William Conolly. The Irish clerkship may therefore have fitted neither the Williams nor Greene model being within the patronage of the predominate faction or parliamentarian.

There are no Journal entries in 1713 or 1715 approving or noting the change of personnel (nor are there in the English Journals when Jodrell was appointed in 1683 or his successor, Edward Stables, in 1727), though the Irish Journal recorded that at the beginning of the 1713 parliament 'the clerks and deputy clerks' took their oaths along with Members.⁶¹ When the Worthingtons and Ambrose sought a fresh patent in 1716, Lords Justice Galway wrote on 22 June, two days after the 1715–16 session ended, to Lord Lieutenant the earl of Sunderland in London with a supporting

⁵⁴ Dennehy, *Administrative History*, p.116, fn 85

⁵⁵ *CJI*(II), p.12; they had not acted during 1689 Parliament.

⁵⁶ *CJI*(I), p.64

⁵⁷ The 1692 committee reported the 1615 and 1634 precedents (*CJI*(II), p.17) and, although there is no *CJI* entry—as swearing in would not be a proceeding of the House—the implication is that swearing in before the lord chancellor was the procedure adopted from 1692.

⁵⁸ *CJI*(II), p.17

⁵⁹ *SP*, 63–374(stamped 291) (Attorney general's opinion, 21 June 1716)

⁶⁰ This is much less than Westminster patent, the reversion of which was sold for £6,000 in 1740s (Philip Marsden, *The Officers of the Commons 1363–1978* (London, 1979), p.41)

⁶¹ *CJI*(II), p.743; there were no such entries at beginning of the 1715 or 1727 parliaments.

report from the attorney general and a certificate from Members, and he added that Bruen Worthington and Ambrose had discharged their 'employment [as clerks] during this session to everybody's satisfaction and are very earnestly recommended by the Speaker and others'.⁶² The certificate, signed by Conolly and 21 MPs, stated that they 'very well qualified ... and every way acceptable to the House', and the signatories included Conolly associates, country gentlemen, Hanoverian Tories and Chief Secretary Charles Delafaye.⁶³ The patent was issued on 23 August 1716.⁶⁴

Twomey suggests that for Bruen Worthington the office was a sinecure.⁶⁵ There is some evidence to support his view. The bundle of supporting documents supplied by Galway made it clear that the Tilsons' patent allowed them to act through deputies, though in the 1690s Tilson Sr. was active as he is described as serving 'with great diligence'.⁶⁶ Moreover, at the beginning of the 1703 parliament it appears to have still been a requirement that once appointed an officer needed the House's leave to withdraw from its service.⁶⁷ But by 1713 the Tilsons' departure was not recorded in the Journals. Nor were there any entries recording substitutions because of illness,⁶⁸ though such notifications may have been unlikely where a patent was held by two active individuals. There is evidence against a sinecure. In support of their petition for a new patent in 1716 the Worthingtons and Ambrose stated that 'in compliance with the universal inclination of the House [they had] purchased the ... office and patent and quitted other business to attend the service of the public'.⁶⁹ Interrogation of the *Registry of Deeds* database indicates that Bruen Worthington gave up the post of deputy registrar and his activity as a notary public from 1716 onwards was largely carried out, though not exclusively, when parliament was not sitting.⁷⁰ In addition, The National Archives of the United Kingdom contain several manuscript copies of entries from the

⁶² SP, 63–374(stamped 289)

⁶³ SP, 63–374(stamped 289, 291); both Tilsons were still living at this time.

⁶⁴ J. L. J. Hughes (ed.), *Patentee Officers in Ireland 1173–1826 including High Sheriffs, 1661–1684 and 1761–1816* (Dublin, 1960), (II), p.94

⁶⁵ Brendan Twomey, *Smithfield and the Parish of St Paul, Dublin, 1698–1750* (Dublin, 2005), p.43

⁶⁶ CTP, p.396 (19 Apl 1697)

⁶⁷ 10 Feb 1704 Cuppaidge sought leave from further attendance (CJ(II), p.425).

⁶⁸ This was still the case at Westminster when Jodrell's letter was read to the House on 28 Mar 1726 (CJGB(XXI), p.641).

⁶⁹ SP, 63–374(stamped 290)

⁷⁰ *Registry of Deeds Index Project Ireland* (<http://irishdeedsindex.net/search/index.html>)

Journals signed by Bruen Worthington and Ambrose.⁷¹ Worthington had been clerk assistant under the Tilsons but he was not listed as attending the 1713 parliament, although he was in Dublin,⁷² which may be an indication he kept out of sight. Trotter may have been a more Tory-friendly stand-in; the Journals described him as a clerk, rather than *the* clerk of the House, though this may reflect the fact that the Tilsons' patent was still current.

The appointment of the clerk assistant was not by patent. The post emerged in the early seventeenth century as deputy to the clerk. The Westminster House formally appointed a clerk assistant in 1640, though the clerk of the House may have had assistance before this date and have appointed, and managed, a team of supporting clerks.⁷³ The title 'clerk assistant' is not used in the Journals until 1666.⁷⁴ But, in contrast to Westminster, the post of 'assistant' to the clerk (as opposed to those who were simply his team of clerks) appears in Dublin in the 1630s.⁷⁵ The Journal for 9 November 1634 recorded a petition to the House from William Sandys, 'assistant' to the clerk asking the House 'to dispense [his] absence here during the term; and [he] humbly prays, another, in his absence, may be admitted to attend this place'. On the following day Walter Heigher was admitted 'and this day sworn, for the better dispatch of the business of this House'.⁷⁶ These entries show that the House approved the appointment of the assistant as he may have duties that brought him within the chamber, most likely attending at the Table (though, as noted, this practice of seeking the House's consent later fell away). In 1661 the same title is used when the House ordered that Richard Warburton 'be assistant to the clerk of the House'⁷⁷ and he is later called clerk-assistant.⁷⁸ Faustin Cuppaidge held the post from 1692 to February 1704/5 when Bruen Worthington replaced him.

⁷¹ For example, from 1727/28, *SP*, 63–390(stamped 16, 21, 22, 25)

⁷² Between 1708 and 1729 Worthington is recorded as a public notary living in Dublin (*Registry of Deeds Index*); entries show he was in Dublin when the 1713 Parliament was sitting. He was deputy registrar of deeds until 1715 (*Register of Deeds*).

⁷³ Williams, *Clerical Organization*, pp.14-15, 31

⁷⁴ *CJI(I)*, p.727

⁷⁵ Although it may have been that the clerk had only one assistant in the 1630s.

⁷⁶ *CJI(I)*, p.78

⁷⁷ *CJI(I)*, p.387

⁷⁸ *CJI(I)*, p.727

The serjeant-at-arms and his deputy were appointed by patent and also sworn in, though details are lacking.⁷⁹ The serjeant-at-arms was a key figure of the structure of the Commons as the House explained to the Lords on 28 July 1666 when the Lords tried to execute a writ of *habeas corpus* for the release of a person in his custody by summoning him to the bar of the House of Lords, because to accede would mean that

their Lordships may discontinue the House of Commons at their pleasure, because they cannot act without a Speaker, the Speaker cannot sit without a Mace, nor a Mace without a Serjeant.⁸⁰

In 1695 Joshua Carpenter, son of the serjeant-at-arms during the 1661 parliament claimed to hold the patent. The Commons appointed a committee stocked with lawyers which concluded that he did 'not appear' to have the right to the office 'but if any of right he has, that he be left to law for recovery thereof'. The House concurred and ordered 'That Mr Wynne, the [current] Serjeant ... have leave to waive his privilege in any suit to be brought against him' by Carpenter.⁸¹ The Commons considered that it was within its authority to consider the claim and that, although Carpenter may have had an arguable claim, they did not want to displace the incumbent, who remained in post until 1697.

In contrast the office of deputy serjeant-at-arms was a sinecure. In 1725 the patent for deputy (or second) serjeant-at-arms was held jointly by Thomas Carter, a former MP, who was to die in 1726, and his son, Thomas, an MP (who was concurrently buying the patent for the deputy master of the rolls and was destined for a substantial legal career).⁸² Carter Sr. assigned the patent to John Stothard, who sought a new patent for his life and that of George Cuppaidge. George I had no objection to the assignees but told Lord Lieutenant Carteret he was not 'willing to countenance or encourage the sale of offices' and withheld consent until 'better informed'. In response Carteret explained that many 'patent offices have been sold without the knowledge of the government, neither should I have been applied to about it'. Because Stothard and Cuppaidge had obtained a certificate of recommendation from Chief Baron Gilbert, however, he had become aware of the transaction. Carteret added that 'there can be no doubt but that this assignment has been made in

⁷⁹ *CJI*(II), p.152 (11 May 1697)

⁸⁰ *CJI*(I), p.756

⁸¹ *CJI*(II), pp.45, 51; Wynne may have secured the office as he 'was a great sufferer by the late war in Ireland' (*Petition Entry Book* 3, p.138 (*CSPD: William and Mary, 1695—10 May 1695*)).

⁸² *HIP* biography

consideration of a sum of money' and concluded ambiguously 'if this employment should be thought of any consequence whatsoever, I am very far from endeavouring to remove objections His Majesty may have to the giving his consent to such a grant'.⁸³ There is no record of a new patent. The office-holder drew a share of fees paid to parliamentary officials and made little impact on the operation of the Commons.

Further down the hierarchy, the functions the clerks who attended committees carried out are imprecise. Williams takes the view that at Westminster a small cadre of committee clerks—four 'out of doors clerks'—emerged in the 1690s. He suggests that they attended committees, carrying out the work themselves without deputies.⁸⁴ A similar pattern can be seen in Ireland. But instead of four out-of-doors clerks Dublin may have had two. In 1661 the House ordered that the clerk 'do from time to time appoint such clerks, as he shall consider fitting, to attend upon the several committees'.⁸⁵ The names of two of these clerks are listed⁸⁶ but it is not until 1703 that more names are recorded. One was Daniel Golborne, who may have developed a specialised skill, working for the Committee of Accounts.⁸⁷ He was a graduate of Trinity College Dublin and had been admitted to the Inner Temple in 1672. Another Commons clerk, Enoch Sterne, progressed to become clerk of the parliaments, that is clerk of the House of Lords. Others have not proved easy to trace. There were, however, committee clerks in post from 1692 as the schedule of fees endorsed by the House in 1695 list fees to be received by the clerks of select committees dealing with private business.⁸⁸ The records are too fragmentary to draw firm conclusions but the lists of House staff in Appendix 6.4.3 show some turnover with the retirement of the Tilsons just before the turbulent 1713 session.

As with other officers, the names of the door-keepers appear to be New English. Williams states that at Westminster the Commons had two door-keepers and four messengers, who were appointed by the serjeant-at-arms and he was able to charge a heavy payment for an appointment

⁸³ *SP*, 63–385(stamped 292, 294) (To Charles Delafaye, 15 July 1725 and certificate signed by Chief Baron Gilbert, 15 July 1725); as well as Chief Secretary 1715–17 Delafaye's career included Under-Secretary of State (Great Britain) 1717–34 and Secretary to the Lords Justices (Great Britain) 1719–27).

⁸⁴ Williams, *Clerical Organization*, pp.54–55, 128

⁸⁵ *CJI(I)*, p.39

⁸⁶ See Appendix 6.4.3.

⁸⁷ *CJI(II)*, p.516 (1 Aug 1707), refers to services including 'two last and this present session'.

⁸⁸ *CJI(II)*, pp.95, 104, xx

as the posts were a source of considerable income derived from the sale of papers and customary fees.⁸⁹ In 1695 there was a door-keeper of the chamber and, as noted, a 'door-keeper attending the gallery' and adjacent committee rooms.⁹⁰ Door-keepers and messengers were then seen as menial servants to be tipped via a collection from Members with the House resolving 'that every Member ... pay onto the doorkeeper for his care and pains in attending with their post-letters half a crown'.⁹¹ By 1713 Perceval noted that Members were becoming reluctant to pay.⁹² He suggests that what was at issue may have been whether the door-keeper and messengers were already sufficiently remunerated as well as the adequacy of their postal and messenger services.

The 1713 session saw the public sacking of the door-keeper to the chamber, George Spike. A *Long History of a Short Session* explains that following his father's victory in the contest for the speakership, St. John Brodrick was so fired up by with resentment against the 'wicked Tories' that

he could not contain himself even against the poor door-keeper, but turned him away from thence with the utmost fury and indignation; and with all the reproaches that could possibly be deserved by a loyal subject for wearing a laurel [a Tory symbol]; though it was known he had served in that employment since the Revolution without the least imputation either upon his honesty or sufficiency for that trust; and that he had succeeded his father in that service.⁹³

The account is hostile to Brodrick but shows that staff of the House could hold partisan views and that Spike's public demonstration of his allegiance in the strained circumstances of the 1713 session was ill-considered. The charged political atmosphere had evidently spread to staff. Spike's position may have been more than a domestic servant and as he had some standing in Dublin.⁹⁴ Brodrick was able to secure the dismissal, presumably with the assistance of his father and the serjeant-at-arms' acquiescence. The political situation was such that the usual norms of long and steady service could be set aside.

⁸⁹ Williams, *Clerical Organization*, p.74

⁹⁰ *CJI*(II), pp.95, xx

⁹¹ *CJI*(II), pp.236 (1697), 479 (1705), 564 (1707), 625 (1709), 680 (1710)

⁹² See Appendix 6.20, *Perceval Diaries*, 1 Dec 1713.

⁹³ Richard Helsham, *A Long History of a Short Session of a Certain Parliament in a Certain Kingdom* (Dublin, 1714), p.20; the subsequent silence of *CJI* records referring to Spike points to the termination of his employment.

⁹⁴ James Spike, son of a George Spike, Pictor [i.e. painter], entered TCD in 1710 (*Alumni Dublinenses Trinity College, University of Dublin 1593–1860: on the database of the Ulster Historical Foundation: <http://www.ancestryireland.com>*) and during the dispute over the Dublin Mayoralty a George Spike was on a list of names, if the Common Council of Dublin were to be remodelled—A. Boyer, *The Political State of Great Britain*, vol. VII (London, 1719), p.49.

2.5 Remuneration of staff of the House of Commons

Staff emoluments posed a problem during the seventeenth century. The Goldbroughs, father-and-son clerks at Westminster after the Restoration, had great difficulty obtaining payment.⁹⁵ Dublin and Westminster came up with different solutions by the beginning of the eighteenth century. There were two problems. First, remuneration—from private bills—was erratic. Second, disbursement of monies due from the Treasury was protracted. Irish officials did not have easy access to Treasury officers that the counterparts at Westminster enjoyed. As early as 11 May 1615 the Journals recorded that Edmond Midhopp had taken a reduction in income by becoming clerk of the House. The Commons considered that his income should be made up to the same level as those of his former colleagues, clerks of Common Pleas, and, expressing satisfaction with his work and finding that 'there was not one private bill passed this session', decided to allocate him £22 out of a fine the House had imposed.⁹⁶ In a good session fees from private bills could provide the Commons staff with a substantial part of their income and in contrast to Westminster where the House of Lords predominated the Irish Commons supplanted the Irish Privy Council after 1703 as the starting point for most private bills.⁹⁷ A table of fees was agreed in March 1640/1 setting out the fees the clerk and serjeant-at-arms could charge (see Appendix 6.5). Although this Irish table antedates an equivalent English table by nine years,⁹⁸ they were obviously in step—generating fees from similar activities such as private bills, copying documents and apprehending and incarcerating people. But some rates and items covered differ—for example, the Irish table has tiered rates for the arrest of knights (20s) and of esquires (13s), on which the English table is silent. The Irish table appears therefore to be grounded in practice rather than an exact copy of English. On obtaining payments, in 1666 the clerk assistant, Richard Warburton, petitioned for payment for his services since the start of the parliament and the committee which considered his petition concluded he should be paid £150 per annum. Disbursement was, however, by the administration. While the House agreed and sent the committee to the lord lieutenant to request payment, nothing

⁹⁵ Marsden, *Officers*, p.37

⁹⁶ *CJI(I)*, pp.52, 54

⁹⁷ *HoP(1690)(I)*, pp.387-90

⁹⁸ Williams, *Clerical Organization*, pp.299-300 and *CJE(VI)*, pp.287-88. The stimulus for the Irish Commons may be that in Oct 1640 it examined the fees charged in courts (*CJI(I)*, pp.160, 168-69).

was forthcoming.⁹⁹ Warburton was still petitioning for his money in 1695¹⁰⁰ as was another clerk from that parliament, Laurence Steele.¹⁰¹

The part of the serjeant-at-arms' responsibilities which generated his income was the fees from those held in custody on the Commons orders. But he had upfront outgoings. When the House ordered the production of a witness, he could be required to send messengers to any part of Ireland. In a petition in December 1695 Serjeant-at-Arms Wynne explained that many of those summoned were placed in custody but, if 'most of whom having been acquitted of the crimes ..., have been discharged [by the Commons] without fees', as a result he suffered a 'great loss'. He met the costs of the upkeep of those in custody¹⁰² and when the 'loss' became serious he had to petition the House for a gratuity. Wynne listed some of those who were discharged without payment of fees and having consulted the Journals pointed out that in 1661 a gratuity of £300 had been given to the Serjeant.¹⁰³ Although the House ordered his petition to lie on the Table, the complaint had effect as releases from with custody with waivers of fees fell off significantly.¹⁰⁴ There was, however, a greater problem with fees which Wynne pointed out in a separate petition in 1695:

there are several fees which are usually paid onto the Serjeant at Arms attending the Commons in *England*, for his attendance and pains in executing the orders of the said House, several of which fees the petitioner not finding to be mentioned in the List of Fees settled upon the Serjeant at Arms attending the House and he not being willing to demand the same until allowed: and therefore praying the House will be pleased to give order onto the petitioner to receive the fees contained in our List.¹⁰⁵

A committee examined staff fees, which reported on 16 October 1695, and on 22 October agreed fees were entered in the Journals.¹⁰⁶ This ensured that there was a definitive and comprehensive

⁹⁹ *CJI*(I), pp.721, 727, 756

¹⁰⁰ *CJI*(II), pp.105, 109, 113; he was also petitioning the Treasury in London for £600 (*CTB*, vol. 1 (1556-1696)—15 Nov 1695).

¹⁰¹ *CJI*(II), p.199

¹⁰² *CJI*(II), pp.134-35

¹⁰³ In response to the 1661 petition the House voted the Serjeant £300 to be paid 'out of the public monies to be raised by act of parliament for defraying the necessary and contingent uses of both Houses' (*CJI*(I), pp.600-01). The 1695 petition cited this earlier precedent.

¹⁰⁴ An electronic search of the *CJI* shows that in the 1695 session before this complaint about half of the orders for discharge from custody had been without fees; after it they fell to under a third for rest of decade with a significant number of these falling in 1698 after Povey replaced Wynne or in respect of MPs in custody (usually for failing to attend).

¹⁰⁵ *CJI*(II), pp.54-55

¹⁰⁶ *CJI*(II), pp.70, 95, 104, xx

list of the fees.¹⁰⁷ The Table was not the end of the story. First, securing payment still presented difficulties. Frequently those summoned to appear before the House—for example, in response to an allegation of breach of privilege by an MP—settled and obviated the need to turn up but the House required fees to be paid. In November 1698 the House appointed a committee

to search the Journals, and see what methods have been formally used for getting the fees due to the clerks and door-keepers that attend the committees, from persons that refuse to pay the same, and make report.¹⁰⁸

The committee reported the precedents which were that the Speaker should issue his warrant for the arrest of those refusing to pay and they should be held in custody until they paid.¹⁰⁹ The issue came up again at the start of the 1703 parliament and the outcome was the same;¹¹⁰ by the end of the reign of Anne the procedure was renewed each session.¹¹¹ (If issued, these warrants were not recorded in the Journals.) The second impediment was the volume and nature of business listed in the Table. Appendix 6.6 sets out sample entries comparing the Irish officers' fees in 1695 and those agreed by the Commons at Westminster in February 1700/1.¹¹² As had been the case in the 1640s, the Westminster list was similar to the Irish fees in the majority of cases with the same or lower rates for identical tasks but with some variation of details. The Irish fees, for example, make no provision for a Speaker's secretary and none is listed in other sources; his functions, and the fees due, which include drawing up warrants for witnesses to attend, were probably carried out by the clerk. Nor are any fees paid to the house-keeper¹¹³ as was the case at Westminster. If comprehensive, the Irish list shows that the serjeant-at-arms may not have derived the same level of fees from private bills as his English counterpart. Instead, he received fees for admitting strangers and serving summonses on behalf of Members, items not listed in the Westminster fees.

Both Tables of Fees required those fees due for private bills to be paid before second reading. This rarely appears to have been a problem. On 18 August 1697 the Irish House extended this

¹⁰⁷ Williams implies that the English House made a mistake in not entering its 1690 and 1695 Tables of Fees in its Journal (*Clerical Organization*, p.300, n.1).

¹⁰⁸ *CJI*(II), p.271

¹⁰⁹ *CJI*(II), p.275

¹¹⁰ *CJI*(II), pp.365-66, 369-70

¹¹¹ *CJI*(II), pp.619, 653-54

¹¹² *CJE*(XIII), p.356 Westminster fees remained unchanged for over a century; Williams, *Clerical Organization*, p.300.

¹¹³ The house-keeper had an income from rents from associated premises which had to be bought out when Chichester House was demolished. *CTBP*, vol. 3 (1735-38)—21 Feb 1735: '£70 p.a. Wm. Maple, gent., Keeper of the new Parliament House, Dublin; salary as such in lieu of certain profits from the use of the old Parliament House out of sessions, and of rents of divers houses now pulled down, enjoyed by his predecessors'.

rule when it demanded fees for 'personal' provisos to public bills. It did this five days after a privy council bill confirming several outlawries and attainders passed the Commons, on a division, on 13 August; although a public bill, significantly it contained provisos exempting named Catholic lords and landowners. The Commons instructed the Speaker to demand payment within 10 days.¹¹⁴ The bill had, however, by then gone to the Lords (where it failed). On the day that the Commons sent a replacement bill¹¹⁵ to the Lords (15 November 1697)—presumably after the beneficiaries of the provisos had paid up—the House appointed a committee to examine the precedents for the charges.¹¹⁶ It reported on 18 November that there was a precedent from 1662, which envisaged summoning those who did not pay rather than holding up the legislation.¹¹⁷ There the matter was left. The episode appears to have been a belated and ineffectual attempt, with a sectarian flavour, to hold up controversial legislation rather than a search for new income. The rule once made was subsequently enforced.¹¹⁸ As Westminster did not enact public bills that applied to Ireland (other than in exceptional circumstances), charging for provisos provided a profitable monopoly for the Speaker and the House's officials.

One feature not listed in the Irish Table of Fees was any reference to the heads of bill process or charges exclusive to its procedures—for example, taking the heads to the lord lieutenant. The omission may have had several reasons. First, the Table was anchored to practice in England. Second, the Table had its genesis before the heads processes solidified. Third, and probably most significantly, the heads process as applied to private bills could generate additional fees—especially for the officers in the Commons as most started in that House—with, for example, two committee stages (at heads and after second reading). Processes—particularly when linked to an order of the House recorded in the Journals—also triggered fees. In addition, as noted, fees due on the bill had to be paid before second reading. In Dublin there would have been a strong incentive to pay at that point as the sponsor having successfully negotiated the heads process was

¹¹⁴ *CJ(II)*, p.171

¹¹⁵ Enacted: 9 William III c.5

¹¹⁶ *CJ(II)*, p.216; Bergin, 'Irish Legislative Procedure', pp.213-14, suggests that 'there was a reluctance in both houses to delay such bills for the purpose of extracting fees from the beneficiaries, and their officers may have suffered as a result'. If that were the case, it is anomalous that officers did not raise the matter more often.

¹¹⁷ *CJ(II)*, p.219

¹¹⁸ *CJ(II)*, p.564

within reach of securing the legislation.¹¹⁹ But given the failure rate of the heads process, fees incurred on a failed heads may have been difficult to collect. Hence the prominence given to the Speaker's warrant to collect money due to officers.

As the Dublin and Westminster parliaments both enacted private legislation that applied in Ireland, they were in competition for the same business. In 1709 and 1710 both Irish Houses reviewed the fees they charged and compared them with Westminster's. The Commons considered that a significant reason for the volume of legislation originating at Westminster was 'in a great measure to proceed from the fees demanded for passing such bills'.¹²⁰ The Irish House of Lords sought a copy of the fees charged at Westminster and suggested they were undercut by 25%¹²¹ and that where a bill 'concerns divers person concerning the same interest ... they are to pay no more than as for one private person'.¹²² A committee agreed the proposals on 24 June 1710¹²³ but nothing further was heard. The episode may have been a reaction to particular circumstances: the reversal of the outlawry and attainder of Lord Slane in 1708 and a spike in Irish legislation enacted at Westminster, which after 1713 reverted to the mean—one or two acts a year (see Appendix 6.10). On this basis the volume of private legislation and the consequent loss of fees to Dublin was not significant.

Parliamentary expenses were not the only outlay. There was the drafting and preparation of a bill which in England in 1700 was estimated to be around £240.¹²⁴ In the case of bills coming before the Irish parliament the sponsor would pay agents in London to guide the bill through the Privy Council as well as officials such as the clerk of the Privy Council.¹²⁵ Only a proportion of the proponent's costs would flow to the Irish Commons. The 1695 Table of Fees allows an inexact estimate of officers' income against entries in the Journals—orders for private business, reading reports and petitions—and the scale and nature of business generating fees and carried out in

¹¹⁹ A sample of 28 private bills which started as petitions between Oct 1692 and Dec 1695 (from the *ILD*) shows that of 20 that failed to reach the statute book 17 were never introduced as bills. Of 11 that reached first reading, eight were enacted; a success rate of 73%. See also, Kelly, *Poynings' Law*, pp.161, 243.

¹²⁰ *CJI(II)*, p.599

¹²¹ *CJI(II)*, p.633

¹²² *CJI(II)*, p.658

¹²³ *CJI(II)*, p.669

¹²⁴ See Appendix 6.7; in comparison in the case study cited below on p. 120 £50 was advanced to draft heads for the Irish Commons.

¹²⁵ *Coghill Letters*, no.39 (To Edward Southwell, 11 June 1728)

committee or at the bar of the House itself is rarely discernible. On the basis of the former and taking a sample in 1703 the total fee income may have been around £10–20 per week.

The problems of remuneration of the Commons staff seen in earlier parliaments persisted into the 1690s: income from fees was low and unsteady¹²⁶ and the alternative of petitioning the administration for remuneration was frustrating. As noted, there were claims overhanging from the 1661 parliament—and not just from Warburton and Steele but from the descendants of Speaker Mervyn, who were pressing for £6,000 they claimed was due from expenses incurred in carrying out the office and loss of income, and they were pressing for it to be paid directly, that is appropriated from a supply bill.¹²⁷ They and Warburton were successful, Steele was not. One reason for their success was that Mervyn's son, Henry, was a Member as was Warburton from 1697¹²⁸—Steele was not an MP—and both appear to have been Whigs.¹²⁹ The heads containing the provision made it through the privy councils and the principle of allowing appropriation to an individual for a debt was therefore properly considered and accepted in London.¹³⁰ The first venture into appropriation of the Irish Commons—in contrast to practice at Westminster where throughout the 1690s appropriation was for public, usually military purposes—was for old, private debts. As a result there was a risk that petitions for money would flood in and the Commons closed the gates shortly afterwards with a resolution:

That this House will not enter into the consideration of giving, or raising any more money this session for any private use, except what relates to Sir *Humphrey Jervis*, Dr *Walker's* family, Captain *Prendergast*, and Mrs *Margaret Hamilton*, widow of Colonel *Gustavus Hamilton*.¹³¹

¹²⁶ Aug 1641 the clerk, Philip Ferneley, petitioned the House pointing out that because of the dearth of private bills he had not received 'the benefit and profit of his place'. As compensation the House provided that as the Scots of Ulster had benefited from 1635 legislation granting them naturalisation the counties of Ulster with Carrickfergus and Derry should be taxed to pay him £250 by Nov 1641 (*CJI(I)*, pp.275, 288). As Dennehy points out, the timing was bad (Dennehy, *Administrative History*, p.13). In July 1661 Ferneley reminded the House of the petition and that he had not been able to collect the money due. MPs in 1661 with knowledge confirmed the veracity of petition; the House revived the order (*I*), pp.428-29).

¹²⁷ *CJI(II)*, p.185

¹²⁸ *HIP* biography: Warburton was an MP from 1697 to 1713 as was his son, also called Richard, from 1692 to 1715/6. One also had ties with the administration—see correspondence in *BL*, Add. 28,879 ff.124-26 (Richard Warburton to John Ellis, 19 Sep 1695).

¹²⁹ *HIP* biography

¹³⁰ *CJI(II)*, p.158; an earlier attempt to appropriate funds for debts Sir Humphrey Jervis had incurred in bridge building was rejected in London because it would be levied as a duty on coal, a product of England; Whitehall had in the preparations for the part-session in 1697 been asked whether the Irish parliament could appropriate and had told the Dublin administration that, if Parliament insisted upon an appropriation, it was not to be opposed (*SP*, *Entry Book 2*, p.163 (*CSPD: William III*, 1697—23 Apr 1697 (Instruction to Lords Justice Galway)).

¹³¹ *CJI(II)*, p.207

The criteria for a select band of petitioners who might be eligible for preferential treatment was emerging: dependents of war 'heroes' and 'House of Commons' debts to former staff. Of more significance, the process worked as there were no subsequent petitions from the Mervyns or Warburton.

After the prorogation of the final parliament of William III, the Tilsons petitioned the king for reward for their services in the parliaments of the 1690s. They asked former Speaker, Robert Rochfort, for advice, who certified that large rewards had been given to the clerk by the 1661 parliament and that the petitioners 'had discharged their duty with diligence and deserve His Majesty's consideration and bounty'. This advice was sent to the Treasury in England and, despite the Tilsons employing an agent in London, no money was forthcoming because of William III's absences abroad. When William died the Lord Treasurer concluded 'that it was for service done in the late reign' and decided not to pay up.¹³² Instead of seeking payment from the administration, the Tilsons and other officers took advantage of the developing supply process to petition the next parliament. A committee of the whole House considered the petition and reported back that the Tilsons should receive £400, the clerk assistant £200, Povey £150 and, his deputy, Cocksedge, £50 for their services to the previous two parliaments. The House then referred the resolutions to the Committee of Ways and Means.¹³³ The stratagem worked and the payments appeared on the face of the second 1703 supply act with the instruction, omitted from the 1697 supply act, that payment was to be made 'without any further or other warrant to be sued for, had, and obtained in that behalf'.¹³⁴ (Tilson Sr. did not push the process at this stage to include for £800 he claimed was owed to his father, Bishop Tilson, which proceeded by the old route of Commons petition to the lord lieutenant without success.)¹³⁵ Having placed a foot in the door—and on the assumption that the arrangement delivered the cash—the clerks, sergeants and door-keepers petitioned separately at the beginning of the 1705 session for payment for the 1703–04 session. The House sent the petitions to a select committee, which included the attorney general. Three factors swayed the committee in favour: the clerk in the 1661 parliament had received 'very large and considerable rewards'; the difficulty of obtaining money via petition; and the current clerks had discharged their

¹³² *CJII*(II), p.448

¹³³ *CJII*(II), pp.357, 448; Tilson Sr. was apportioned £300, Tilson Jr. £100; Povey did not become serjeant-at-arms until 1697 and Cocksedge was not in post during 1692 Parliament.

¹³⁴ 2 Anne c.4, section XI

¹³⁵ Tilson petitioned in 1707—*CJII*(II), p.541.

duties with diligence. The committee reported that 'the petitioners were entitled to a reward for their service and attendance in such measure and in such manner as the House saw fit'. The House ordered that the report be referred to the Committee of Ways and Means¹³⁶ but the upshot was that the House petitioned the lord lieutenant for £400 for the clerks and £100 to the serjeant-at-arms for their services during the previous and current sessions and £50 to the doorkeeper for his services in the past and current parliaments. No payment was made (and provision was not included in the supply act enacted that session). The position was rectified at the start of the 1707 session when the House included in the supply resolutions sums for the past and current sessions; these provisions appeared in the 1707 supply act.¹³⁷ The mechanism was now established and the officers of the House petitioned early in the session for money, which was provided through the supply process and the provision was included in the main supply act.¹³⁸ Tilson Sr. in 1709 used this route to obtain the £800 he claimed was owed to his father in the 1640s.¹³⁹ The mechanism worked as there was no subsequent evidence of officers chasing back payments.¹⁴⁰ When the 1713 session ended prematurely, those owed money were able, on petition to the House, to obtain back payments in later sessions.¹⁴¹

The 1729–30 Journals show how the process developed. The petitions from the officers became a routine part of the supply process and were noted perfunctorily. The amounts payable had increased, and additional items were added—such as the preparation of accounts. Between 1707 and 1729/30 the total claimed increased from £700 to nearly £1,900. Although the list of officers of the House included in appropriations remained constant, other office-holders joined the list—notably, the comptroller and auditor general, but not officers of the House of Lords.¹⁴² Taking advantage of their position within the supply process in the Commons officers were able to make up shortfall in income.

¹³⁶ *CJI(II)*, p.448

¹³⁷ *CJI(II)*, p.516; 6 Anne c.1, section VII

¹³⁸ *CJI(II)*, pp.587-88, 653, 709

¹³⁹ *CJI(II)*, p.588; 8 Anne c.2, section VII

¹⁴⁰ Accounts for Lady Day 1710 to midsummer 1711 record payment of £950 to officers of the Commons, *SP*, 63–367 f.71 (stamped 58)

¹⁴¹ *CJI(III)*, pp.45-46, 140-41, 205; 2 George I c.7; section II; 4 George I c.1, section II; 3 George II c.1, section IX

¹⁴² *CJI(III)*, pp.594-95

Officer in 1729–30	(1707 equivalent)	1729–30 payments
Clerk (Bruen Worthington) and for preparing accounts	(£200) -	£300 £150*
Clerk (Isaac Ambrose) and for preparing accounts	(£100) -	£200 £150*
John Ker (clerk assistant)	(£100)	£200
Committee clerks (William Bayley and Henry Buckley)	-	£250 (shared)
Preparation of accounts (Buckley) this session	(£100)§	£250
last session	(£100)§	£100
Door keepers (John Fieldhouse and James Savage)	(£50)	£80 (shared)
Serjeant-at-arms (Richard Povey)	(£150)	£300
Comptroller and auditor general	-	£300
* Given jointly as £300	§ Given as £200 for two sessions	

Table 2 Appropriations to officers

The facility to use the supply process in this manner was not available at Westminster¹⁴³ where the government had tighter control of appropriation, in order to prevent Member-led pork-barrel expenditure.¹⁴⁴ In contrast in Ireland, once precedents were established and once loaded into the supply heads the political sensitivities surrounding supply prevented the privy councils from tampering with the provisions.¹⁴⁵ Table 3 sets out the amounts appropriated for Irish clerks and officers in 1711¹⁴⁶ against claims made by clerks and officers at Westminster in 1713 for payment for their work. (Caution must be exercised with the comparison as the Westminster figures are in part bids for compensation for the removal of a category of private business, naturalisation bills.) In 1713 Westminster enacted 25 private acts (down from an average of 50 for the 1697–98 to 1708–09 sessions),¹⁴⁷ compared to an average for the Irish parliament of seven per session between 1703 and 1711.¹⁴⁸ Notwithstanding the downturn in private business, fees at Westminster provided clerks and officers with more lucrative remuneration than those in Dublin, whose income was supplemented with payments from the Exchequer.

¹⁴³ Williams, *Clerical Organization*, describes the often unsuccessful attempts of clerks and officers to obtain emoluments from Exchequer, pp.45–46, 287–94.

¹⁴⁴ See p.231 below. The heads process allowed a wide ranging review of, and debate on, financial matters upstream of government controls developed at Westminster at the beginning of eighteenth century, especially its veto on appropriation. Bills returned from London implicitly had government approval equivalent to the requirements of Westminster's financial procedures. Other constraints on pork-barrelling in the Irish Commons overlapped with those in England: both were run on a 'low-tax philosophy' and MPs' direct contact with taxpayers (Conrad Russell, *King James VI and I and his English Parliaments* (Oxford, 2011), pp.6, 20).

¹⁴⁵ See p.225 below.

¹⁴⁶ *CJI*(II), p.709

¹⁴⁷ *HoP*(1690)(I), p.389

¹⁴⁸ Kelly, *Poyning's Law*, p.161

Irish House of Commons		Great Britain House of Commons	
Clerks of the House: Thomas Tilson, Sr.	£200	Clerk of the House	£300–400
Thomas Tilson, Jr.	£150		
Clerk assistant	£200	Clerk assistant	£100–120
Serjeant-at-arms	£200	Serjeant-at-arms	£290
Two committee clerks (jointly)	£250	Other clerks	£50 each
Door-keeper	£50	Door-keeper	£30–40

Table 3 Remuneration for officers in Irish House of Commons in 1711 compared with claims made by officers in Westminster House of Commons in 1713

2.6 Journals of the House of Commons

From the English records it is clear that one of the primary responsibilities of the clerk was writing up and holding the records and papers of the House;¹⁴⁹ in Ireland the clerk had the same responsibilities.¹⁵⁰ There was need for a mechanism to ensure accuracy. On 18 November 1695 the Commons corrected 'a mistake committed in the Votes' of 26 October that it would examine certain lords 'on oath', an infringement of the privilege of the Lords. The Commons ordered that the offending words be struck from the Journals and the printed *Votes*, 'not having been the resolution of this House'.¹⁵¹ The following day the House sent a message to the Lords pointing out that the error was the clerks' and that they had been censured.¹⁵² No mention was made of any existing arrangements for checking and the House, following earlier Westminster procedure,¹⁵³ set up a committee of seven experienced Members, two of whom had sat in the 1661 parliament, to meet in the Speaker's chamber at 4pm each day to check that the *Votes* were 'agreeable to the sense of the House'.¹⁵⁴ (This is one of the few instances where pre-1692 expertise was clearly used after 1692.) According to the order a new committee was to be appointed for this purpose every

¹⁴⁹ Williams, *Clerical Organization*, pp.37, 42

¹⁵⁰ *CJI*(I), p.753 (18 July 1666)

¹⁵¹ *CJI*(II), p.115

¹⁵² *CJI*(II), pp.116-17

¹⁵³ On 11 Dec 1678 the Westminster Commons: '*Resolved*, That a Committee be appointed to inspect and peruse the Journals of this House; and see that due entries be made; and make a report of the mistakes and errors therein every *Monday* Morning. ... '*Ordered*, That the Orders of the House be drawn up every day, and read the next morning, before they be entered in the Journal' (*CJE*(IX), p.556).

¹⁵⁴ *CJI*(II), p.116. Those who sat in 1661 were Henry Davis and John Weaver Sr. The others appointed were Maurice Annesley, Randall Brice, William Sprigge, William Molyneux and Clotworthy Upton. The same MPs were re-appointed on Monday 25 Nov (II), p.123) and on Monday 2 Dec 1695 (II), p.129) but there were no further entries. The House adjourned on Saturday 14 Dec 1695 which was followed by a series of short sittings often starting on a Tuesday and lasting a few days with adjournments up to four months until July 1697. There is no mention of the 'Monday' committee again. Brice was dead by 15 Sep 1697 when a writ was moved for a by-election for his seat but there is no entry in the *CJI* for a replacement on the committee.

Monday but, if this happened, there is no trace in the Journals. Instead—as at Westminster—at the start of later sessions supervisory responsibilities were given to the Speaker.¹⁵⁵

There is no evidence that arrangements for the production of the Journals followed anything other than those for Westminster, about which more is known. A clerk took a note during business—a 'rough copy'—and this was written up quickly as a definite version was required for the printers to produce the daily *Votes*. Although there is only one known surviving original manuscript Journal of the Irish Commons (from 1613–15),¹⁵⁶ there are many manuscript copies of *Votes* in The National Archives at of the United Kingdom and what appears to be a copy of the entire Journal for the 1692 parliament.¹⁵⁷ Most likely it was a copy of the written up entries for the 1692 parliament, which was sent to London when the session was terminated abruptly, possibly as part of an inquest. The 1692 'Journal' differs from the surviving, contemporary printed *Votes* in that there is no abridgement—such as editing out of speeches or membership lists of committees.¹⁵⁸ With the Journal in a different, cursive hand is a draft index, which in their final form are found in bound Westminster manuscript Journals.¹⁵⁹ There is no evidence to show when or where the Irish index was produced but it does point to a standard approach and method of operation in administrative processes. The 1692 Journal also has comprehensive explanatory notes in the margins, which with some tidying up were reproduced in the eighteenth-century, printed Journal for the 1692 parliament.¹⁶⁰ They include names, descriptions and processes and used with an index would provide a tool for searching the Journals.

As Dennehy and Bergin have pointed out, there are errors and omissions¹⁶¹ but comparison of the 1692 manuscript and printed copies of *Votes* with the printed Journals shows these to be minor,

¹⁵⁵ See *CJ(II)*, p.243 (3 Oct 1698); this order copied Westminster: 'Ordered, That the Votes of the House be printed. Ordered, That Mr. Speaker do peruse the Votes of the House, and order the printing of them' (*CJE(X)*, p.273).

¹⁵⁶ Dennehy, 'Manuscript Alternatives', pp.139-143; all other Journals of the Commons were destroyed in the Four Courts in 1922.

¹⁵⁷ *SP*, 63–354 ff, 231ff (stamped 232ff)

¹⁵⁸ For example, see *Votes* in *SP*, 63–359 ff.319-22 (stamped 105-06) for 5 Aug 1697 and *SP*, 63–386 (stamped 104) for 21 Sep 1725.

¹⁵⁹ *SP*, 63–354 ff.272ff (stamped 273ff); as well *SP*, 63–354 contains manuscript copies of *Votes* for most days of the session with a few printed copies along with a copy of *An Account of the Sessions of Parliament in Ireland, 1692*, which was hostile to the government.

¹⁶⁰ Some sample checking of the 1692 manuscript against the 1795 printed edition shows that the latter—with the exception of membership lists of committees—is an accurate and comprehensive version of the content of the original. Punctuation and layout in 1795 were altered to follow the model of the printed Westminster Journals.

¹⁶¹ Dennehy, *Administrative History*, pp.20ff; Bergin, 'Irish Legislative Procedure', p.267, suggests that the number of Irish legislators who sat in parliament and on the Irish council may account for the 'occasional disappearance of

making the 1795 edition of the Journals a dependable transcription of the written-up Journals. This raises the question: which items of business were recorded by the clerks? Sir John Perceval in his diaries¹⁶²—covering part of the 1711 and most of the 1713 sessions—throws doubt on the comprehensiveness of the records but not their accuracy or the record of decisions. From the diary the following items of business were not recorded in the Journals:

- a) (as can be recognised from the Journals themselves) business in committees;¹⁶³
- b) motions debated and withdrawn;¹⁶⁴
- c) motions interrupted by prorogation;¹⁶⁵
- d) some items of business which resulted in no resolution or action—for example, a decision not to adjourn;¹⁶⁶
- e) some substantive items of business such as an order to take Sir William Fownes into custody;¹⁶⁷ and
- f) in some decisions taken on a division where it appears the clerks did not record the figures.¹⁶⁸

The 1713 session was atypical in that it saw the culmination of the 'rage of party' and, more prosaically, there was a new, and possibly inexperienced, team responsible for the records. In other cases omission was because a sponsor had not paid: private business, which included election disputes referred to committee, required fees for entries in the Journals and, if a sponsor

heads of bills from the commons' records and their reappearance at the Irish council, without any order recorded in the journals'.

¹⁶² See Appendix 6.20.

¹⁶³ See Scobell, *Memorials*, p.39, which cites a rule made in 1607 that 'Every thing directed and agreed to be reported, ought to be accordingly reported; but not every thing spoken or debated at a Committee'. On 1 Dec 1713 there was a division in committee of the whole House on who should chair of Committee of Elections (*Perceval Diaries*, p.128) which is not recorded in the *CJI*. The procedure may have been irregular as Thomas advises that, if there was a dispute over the Chair, it went back to the House for decision (Thomas, *Commons*, p.272 and Scobell, *Memorials*, p.37) or it may have been an oversight.

¹⁶⁴ *CJI*(II), p.724; the *Perceval Diaries*, pp.114-32; withdrawal was allowed with permission of the House. This instance is instructive as the entry in *CJI*, while strictly procedurally correct, is not a reflection of the actuality. The *CJI* stated that orders of the day were not proceeded on and that the House adjourned until the following day. Sir John Perceval records a decision to bring in candles, which would have been done on the basis of a motion, and then a substantial debate with several contributions on a motion to restrict the Privy Council's power to control the export of corn. The latter was withdrawn with the leave of the House.

¹⁶⁵ *CJI*(II), p.735; *Perceval Diaries*, pp.119-20

¹⁶⁶ For example, the loss of a motion to adjourn or that the previous question be now put; see later entries for 1713 in Appendix 6.20 and *Perceval Diaries*, p.131.

¹⁶⁷ *Perceval Diaries*, p.132

¹⁶⁸ *CJI* 16 Dec 1713 records that there was a division on whether to remove the reference to the lord chancellor in a motion and that 'on a division it passed in the negative'; the figures are provided at the *Perceval Diaries*, p.133. For other examples see: pp.134-35. *CJI* entries of decisions are consistent with the results of divisions.

saw no advantage or lost, a fee was not forthcoming and a report or order was not entered in the Journal.¹⁶⁹

As Betty Kemp points out in respect of Westminster, publication of the *Votes* provided both an authorised and an immediate printed report of the activities of the House and copies were distributed by the serjeant-at-arms to all Members and was sold to the public.¹⁷⁰ Within a week of the House meeting in October 1692 it established Westminster practice with an order that its 'votes ... already passed, or which shall hereafter pass, may be printed; Mr Speaker first perusing the same, and authorising the printing thereof'.¹⁷¹ (The first printed *Votes* are at Figure 4.) This formula with the subsequent addition of the warning (first used at Westminster in 1691) that 'no person do presume to print the same but such as Mr Speaker shall appoint' became standard at the start of each session.¹⁷² The Commons was usually content for newspapers to reproduce the *Votes* without interference. Given the extent to which the London papers, over which the House had no jurisdiction, reproduced material from the Irish *Votes*, action by the Irish House against Dublin papers publishing similar material would have looked anomalous, if not perverse, and contrary to *patriotic* sentiments. The Irish House only moved against Dublin printers when they produced a rival version of the *Votes* or seriously misrepresented a *Vote*.¹⁷³

¹⁶⁹ *CJI*(II), pp.95, xx

¹⁷⁰ Kemp, *Votes*, p.3

¹⁷¹ *CJI*(II), p.13; the English model is at *CJE*(X), p.273.

¹⁷² For example, *CJI*(II), pp.45 (1695–97), 243 (1698–99); (III), p. 581 (1729–30); the English model is at *CJE*(X), p.540 (27 Oct 1691).

¹⁷³ In 1709 the House reprimanded the printers, Francis Dickson and Stephen Powell, 'relating to a printed proposal published by them, concerning the printing of the Votes of this House' (*CJI*(II), p.577). This appears to have been an isolated incident and may have concerned a proposal to re-print the *Votes* exactly. It is not until 1725 that the next instance is recorded when Dickson's son, Richard, and Gwyn Needham 'having taken upon them to reprint the *Votes* of this House in their newspaper ... misrepresenting the sense and proceedings of the House, are guilty of a breach of the privileges of this House' (III), p.416). Four years later Dickson fell foul of the House again when he printed the proceedings of 29 Nov, 'in contempt of the [sessional] order, and in breach of the privilege of this House'. The newspaper was delivered at Table and the offending paragraph read. The House ordered Dickson arrested, he was incarcerated and released, subject to payment of fees on 10 Dec 1729 (III), pp.607, 615 and 616). The incidents appear to be commercial, rather than political, in origin—R. Munter, *History of the Irish Newspaper 1685–1760* (Cambridge, 1967), and Mary Pollard, *A Dictionary of Members of the Dublin Book Trade 1550–1800* (Cambridge, 2000).

Die Lune 10 die Octob. 1692.

THE Houſe having proceeded in the further Swearing ſeveral of their Members:

A Meſſage was brought by the Gentleman Uſher of the Black Rod, That it was his Excellency the Lord Lieutenant's Pleaſure, that this Houſe ſhould immediately attend him in the Houſe of Peers; Whereupon the Houſe accordingly repaired thither, and at the Bar of the ſaid Houſe preſented Sir Richard Levinge, K^t. Their Majeſties Solicitor General, their Speaker; and the Speaker having made a Speech, excuſing himſelf on account of his Inability for ſo weighty an Office, his Excellency was pleaſed nevertheless to approve of him, and thereupon Mr. Speaker return'd his Excellency Thanks for his Favourable Approbation of him, with Promiſe of his Faithful Execution of the Truſt reſoſed in him; and in the Name of the Commons made the uſual Demands of their Rights and Privileges; And then Mr. Speaker, and the reſt of the Members, returned to their Houſe, and took their Places. And Mr. Speaker being in the Chair, Reported his Excellency's Speech to both Houſes of Parliament, delivered on Wednesday laſt in the Houſe of Peers; and having a Copy thereof, Read the ſame in the Chair.

Ordered, *Nemoine Contradicent*, That a Committee be appointed to meet this Afternoon at Three of the Clock, in the Speaker's Chamber, to prepare an Addreſs of Thanks to be preſented to his Excellency the Lord Lieutenant, for his Speech delivered on Wednesday laſt, to the Lords and Commons in the Houſe of Peers; and Report the ſame to this Houſe to morrow morning, at Eleven of the Clock; And that the Members of this Houſe that are of Their Majeſties moſt Honourable Priſy Council, do attend his Excellency the Lord Lieutenant this Afternoon, and acquaint him with the Vote of this Houſe, for an Addreſs of Thanks to be made to his Excellency for his Speech delivered to the Lords and Commons in the Houſe of Peers on Wednesday laſt, and humbly to deſire the ſame may be printed.

Mr. Rochfort, a Member of this Houſe, returned to ſerve in this preſent Parliament, as a Knight of the Shire for the County of *Wex-Meath*, and alſo to ſerve as a Citizen for the City of *London-Derry*; by leave of the Houſe made his Election to ſerve for the County of *Wex-Meath*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery, to make out a New Writ to the Sheriff of the County of the City of *London-Derry*, to Eleſt a Citizen to ſerve in this preſent Parliament for the ſaid City of *London-Derry*, inſtead of the ſaid Mr. Rochfort.

Mr. Ludlow, a Member of this Houſe, Returned to ſerve in this preſent Parliament as a Burgeſs for the Borough of *Boyle*, in the County of *Roſcommon*, for the City of *Clogher* in the County of *Tyrone*, and for the Borough of *Lemavaddy* in the County of *London-Derry*; by leave of the Houſe made his Election to ſerve for the Borough of *Boyle* in the County of *Roſcommon*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery, to iſſue out New Writs; one to the Sheriff of the County of *Tyrone*, to Eleſt a Citizen to ſerve in this preſent Parliament for the ſaid City of *Clogher*; and the other to the Sheriff of the County of *London-Derry*, to Eleſt a Burgeſs to ſerve in this preſent Parliament for the ſaid Borough of *Lemavaddy*, in the place and ſtead of the ſaid Mr. Ludlow.

Mr. Poultney, a Member of this Houſe, returned to ſerve in this preſent Parliament as a Burgeſs for the Town of *Wexford*, and alſo for the Borough of *Charlemont*, in the County of *Armagh*, by leave of the Houſe made his Election to ſerve for the ſaid Town of *Wexford*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery, to make out a New Writ to the Sheriff of the County of *Armagh*, to Eleſt a New Burgeſs to ſerve in this preſent Parliament for the ſaid Borough of *Charlemont*, inſtead of the ſaid Mr. Poultney.

Dr. Dunn, a Member of this Houſe, returned to ſerve in this preſent Parliament as a Burgeſs for the Borough of *Killeleagh* in the County of *Down*, and alſo for the Town of *Mullingar* in the County of *Wex-Meath*, by leave of the Houſe made his Election to ſerve for the ſaid Borough of *Killeleagh*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery to make out a new Writ to the Sheriff of the County of *Wex-Meath* to Eleſt a new Burgeſs for the ſaid Town of *Mullingar*, inſtead of the ſaid Dr. Dunn.

Mr. George Rogers, a Member of this Houſe, Returned to ſerve in this preſent Parliament for the Borough of *Lifmore* in the County of *Waterford*; and alſo for the Borough of *Middleton* in the County of *Cork*; by leave of the Houſe made his Election to ſerve for the ſaid Borough of *Lifmore*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery, to make out a new Writ to the Sheriff of the County of *Cork*, to Eleſt a new Burgeſs to ſerve in this preſent Parliament for the ſaid Town of *Middleton*, inſtead of the ſaid Mr. Rogers.

Mr. Weaver the Elder, a Member of this Houſe, Returned to ſerve in this preſent Parliament, as a Knight of the Shire for the *Queens County*; and alſo to ſerve as a Burgeſs for the Borough of *Maryborough* in the ſaid County; by leave of the Houſe made his Election to ſerve as Knight of the Shire for the *Queens County*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery to make out a new Writ to the Sheriff of the *Queens County*, to Eleſt a Burgeſs to ſerve in this preſent Parliament for the ſaid Borough of *Maryborough*, inſtead of the ſaid Mr. Weaver the Elder.

Mr. Richard Reynel, a Member of this Houſe, Returned to ſerve in this preſent Parliament as a Burgeſs for the Borough of *Wicklow*, in the County of *Wicklow*; and alſo as a Burgeſs for the Town of *Armagh*; by leave of the Houſe made his Election to ſerve for the Borough of *Wicklow*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery to make out a new Writ to the Sheriff of the County of *Armagh*, to Eleſt a Burgeſs to ſerve in this preſent Parliament for the ſaid Town of *Armagh*, inſtead of the ſaid Mr. Reynel.

Mr. James Hamilton, a Member of this Houſe, Returned to ſerve in this preſent Parliament, as a Knight of the Shire for the County of *Tyrone*; and alſo as a Burgeſs for the Borough of *St. John's Town* in the County of *Down*; by leave of the Houſe made his Election to ſerve for the County of *Tyrone*.

Ordered, That Mr. Speaker do iſſue his Warrant to the Clerk of the Crown in Chancery, to make out a new Writ to the Sheriff of the County of *Down*, to Eleſt a new Burgeſs to ſerve in this preſent Parliament for the ſaid Borough of *St. John's Town*, inſtead of the ſaid Mr. Hamilton.

The Clerk of the Crown attending with the Return of the Knights of the Shire for the County of *Roſcommon*, the ſaid Return appearing to be Erroneous in the addition of one of the ſaid Knights;

Ordered, That *Tobias Molley*, Eſq; High Sheriff of the ſaid County, be ſummoned to attend this Houſe, to amend his Return of the Knights for the ſaid County.

Ordered, That *George Crofts*, Eſq; a Member of this Houſe, be ſummoned by the Serjeant at Arms attending this Houſe, to be in his Place to morrow morning, to answer an Information given againſt him by a Member of this Houſe.

Ordered, That Mr. Th. Tiſſen Senior, and Mr. Th. Tiſſen Jun. be allowed and approved by this Houſe, as Clerks of this Houſe, and that Mr. *Enuſtin Cubage* be allowed for their Clerk Aſſiſtant, and that a Committee be appointed to ſearch Preſidents where, and after what manner the Clerks and their Aſſiſtants ought to be ſworn.

Reſolved, That Dr. *Walkington* be Admitted and Allowed as Chaplain to Read Prayers in this Houſe every Morning, and that he do attend accordingly.

A debate ariſing about the Privileges of this Houſe, of having their Poſt-Letters free, and the Houſe being informed, that his Excellency the Lord-Lieutenant had taken Order therein;

Ordered, That the debate about Members having their Letters Frank, be Adjourned to a further day. And then the Houſe Adjourned till to morrow Morning at Nine of the Clock.

By Virtue of an Order of the Houſe of Commons, I do Appoint William Norman to Print theſe Votes, and ſhall no other do Preſume to Print the ſame.

Ri. Levinge, Speaker

Dublin: Printed for William Norman. And Reprinted at London by R. Roberts.

25-28 in

Figure 4 First Printed Votes of Irish House of Commons (10 October 1692)

The surviving copies of the Irish House's subsequent *Votes* are almost interchangeable with those produced at Westminster (see Figure 5 and Figure 6). The sequentially page numbering allowed a set for the session to be bound, though without an index and marginal headings they are not easy to search.¹⁷⁴ The speed of production was comparable with Westminster and fast production meant that checking had to be swift and accurate.¹⁷⁵ The correspondence with officials in London often enclosed *Votes* and frequently made reference to yesterday's *Votes* or those of the day before being not yet available,¹⁷⁶ implying that they usually were.¹⁷⁷ Sir John Perceval's and other accounts of the 1713 session state several times that he would not cover business because the *Votes* showed it.¹⁷⁸ In compiling the diary and his autobiography he therefore had a set of the *Votes* with the notes he had taken contemporaneously. With one exception he regarded them as accurate. The exception was the entry in the *Vote* for 1 December 1713 recording a motion for a committee to draw up a heads of a bill to attain the pretender. Perceval says that the decision was *nemine contradicente* but the *Vote* failed to record this (as does the later printed Journal).¹⁷⁹ Perceval explained that the Speaker did not express unanimity in the *Votes* 'as he should have done' and mused before erasing 'either through inadvertency or to make it believed in England that the pretender had friends in the Irish parliament, thereby to raise the character of the Whigs'.¹⁸⁰ For him, the Speaker alone was responsible for the content of the *Votes* and could edit key entries to convey a message to a section of readers. The *Votes* were one of the main conduits of the House's views to the administration and beyond.¹⁸¹ Officials in Dublin Castle sent material for inclusion in the *London Gazette*.¹⁸² Those who sent *Votes* to Whitehall can be split into two groups: officials who sent them without much comment; and those who provided commentary,

¹⁷⁴ There are surviving near complete sets of *Votes* for the 1703–04, 1717 and 1719 sessions. Southwell assembled complete sets which he kept with bills passed in the session (*BL, Add. 34,777 ff.100ff*). In contrast those surviving in UK National Archives tend to be individual copies or short runs sent from Dublin immediately after publication with a focus on business in which the government had an interest.

¹⁷⁵ There is no evidence of financial support provided through voted funds and it appears that the appointed printer, holding a monopoly, was able to finance the production from sales of *Votes*. He may have spurred the House to action in 1709 and 1725 (*noted above*).

¹⁷⁶ For example, correspondence between Gerard Bor (Clerk of the Parliaments) and John Ellis (15 Oct 1695) which indicated that *Votes* were included and 'if the [Commons] votes of yesterday come out this night they shall be sent' (*BL, Add. 28,879 f.194*).

¹⁷⁷ One counter argument is that manuscript copies continue to be included regularly.

¹⁷⁸ *Perceval Diaries*, pp.131–34, 136, 139–38

¹⁷⁹ *CJ(II)*, p.759

¹⁸⁰ *Perceval Diaries*, pp.139–40

¹⁸¹ Dermot J.T. Englefield, *The Printed Records of the Parliament of Ireland* (London, 1978), p.5

¹⁸² *SP*, 63–363 f.68 (stamped 254) (Southwell to Richard Warr, 25 Sep 1703)

which ranged from trivia through the self-serving to the prescient. These accounts focussed on the matters that interested the recipients, which was principally securing supply and key public bills as quickly and smoothly as possible or issues of high drama such as the impeachment of Lord Chancellor Porter; one aspect that generated interest was the arguments advanced on each side of an issue. These officials were not interested in business, as Richard Warburton noted, such as 'Hackney coaches and paving the streets or other matters of little importance'.¹⁸³ Communication did not flow in one direction and they had an appetite for news from London.¹⁸⁴ Irish clerks and politicians were integrated into the Westminster-Whitehall framework. Carteret in Dublin observed to Edward Southwell on 16 March 1729/30: 'the eyes of people here are upon the Votes of the House of Commons of England to see if your duties upon the yarn are to be taken off'.¹⁸⁵ Beyond news, the similarity between the Westminster and Dublin *Votes* in form, layout and content meant that they provided an easy and up-to-date guide for those running and participating in the Irish Commons. Barnard states that some Westminster *Votes* had been reprinted in Dublin during the agitated 1680s and were used by the Irish parliament.¹⁸⁶ Print provided a more direct and accurate method for the transmission of parliamentary concepts, procedures and formulations than personal contact, visiting Westminster or even manuscript copies. Michael Harris gives more detail from the records kept by Delafaye (around 1710) which show how news, including the Westminster *Votes*, was distributed. He dealt with about 70 customers scattered through the British Isles, with a concentration of consumers in Ireland who were supplied through an official contact in Dublin.¹⁸⁷

¹⁸³ *BL, Add. 28,879 ff.138* (Richard Warburton to John Ellis, 19 Sep 1695)

¹⁸⁴ For example, *BL, Add. 28,892 ff.26* (Lt.-Gen. William Steuart to [John Ellis], 23 Mar 1703/4), 101 (Joshua Dawson to John Ellis, 18 May 1704), 208 (William Kildare to John Ellis, 15 Aug 1704)

¹⁸⁵ *BL, Add. 38,016, f.27*

¹⁸⁶ T.C. Barnard, 'The Irish Parliament and Print, 1660–1782', *Parliamentary History*, vol. 33, issue 1 (Feb 2014), pp.98-99, fn 12

¹⁸⁷ Michael Harris, 'Parliament in the Public Sphere: A View of Serial Coverage at the Turn of the Seventeenth Century', *Parliamentary History*, vol. 26, issue 1 (Feb 2007), pp.65-66; Michael Harris, 'Newspaper distribution during Queen Anne's reign', in R.W. Hunt, I.G. Philip, R.J. Roberts (eds.), *Studies in the Book Trade: in Honour of Graham Pollard* (Oxford, 1975), pp.139-51

(39)

N^o. 127

VOTES

OF THE

HOUSE of COMMONS.

Luna 13^o. Die Julii, 1719.

Ordered,
THAT *Thomas Nolan*, Complained of on *Tuesday* last, for having caused *Richard St. George* Esq; a Member of this House to be Served with a *Subpena* out of *Chancery* during the Time of Privilege, do Attend this House on *Thursday* Seven-night.

Ordered,
 That the Committee of Privileges and Elections be Discharged from Proceeding upon the Matter of the said Complaint.

Ordered,
 That Leave be given to bring in Heads of a Bill *For Preventing the Ingrossing, Forestalling and Regrating of Coals in this Kingdom*, and that Mr. Solicitor-General, Alderman *Burton*, Mr. *Tighe*, and Mr. *Marlay* do Prepare and Bring in the same.

Ordered,
 That a Committee be Appointed to Inspect and Enquire what Laws are Expired or near Expiring that are fit to be Revived or Continued. And a Committee was appointed accordingly.

Mr. *Ward* Reported from the Committee appointed to take into Consideration the Petition of Dame *Clotilda Eustace*, Widow and Relict of Sir *Maurice Eustace* Kn^t. Deceas'd, and *Clotilda* his Daughter, and

(40)

and Robert Echlin, and other the Creditors of the said Sir Maurice, That they had come to a Resolution in the Matter to them Referr'd, which he Read in his Place, and afterwards delivered at the Table, where the same was again Read, and is as followeth:

Resolved,

That it is the Opinion of this Committee, That the Petitioners have fully Proved the Allegations of their Petition.

To which Resolution the Question being put, the House did Agree.

Ordered,

That Leave be given to bring in Heads of a Bill For the Relief of the Creditors of Sir Maurice Eustace, late of Harristown in the County of Kildare, Kn^t. Deceas'd by Sale of his Estate or a sufficient Part thereof for the Payment of his Debts, and that it be Referr'd to the same Committee to whom the said Petition was Referr'd, to Prepare and Bring in the same.

Ordered,

That the said Committee be Enlarged, and the same was Enlarged accordingly.

Mr. Busfield according to Order Presented to the House, Heads of a Bill For the Relief of Insolvent Debtors, which were Received and Read, and Committed to a Committee of the Whole House on Thursday Seven-night.

Then the House adjourn'd till to Morrow Morning at Ten a Clock.

BY Virtue of an Order of the House of Commons, I do Appoint Samuel Fairbrother to Print these Votes, and that no other Person do presume to Print the same.

William Conolly, Speaker.

Printed by Samuel Fairbrother, and are to be Sold at his Shop in Skinner-Row, over-against the Tholsel, where may be had all the Votes of the last Session of Parliament, and the Report relating to the City of Dublin.

Figure 5 Example of Irish House of Commons Votes (13 July 1719)

[131]

Numb. 53

V O T E S

O F T H E

House of Commons.

Jovis. 11 die Aprilis, 1728.

SIR *John Rushout* reported from the Committee, to whom the Bill for repairing and amending the several Roads leading to and from the Borough of *Evesham* in the County of *Worcester*, was committed, That the Committee had heard Council upon the Petition of the several Gentlemen, Freeholders, Tenants and others, the Inhabitants in the several Parishes and Townships of *Isretfordton, Willerssea, Saintbury, Aston, Weston, the Honybanes, Mickleton, Pebworth, Barton, Biddeford, Broome, Wexford, Church-Salford, Abbots-Salford, Harvington, Norton, Leachwick, Offenham, Cleve, Prior, North-Littleton, Middle-Littleton, South-Littleton, Badsey, Wickbamsford, Great-Hampton, Little-Hampton, Buckland, Laberton, Hinton on the Green, Alcester, Broadway, Childs-Wickham, Doffington, Summerville, Aston, Church-Lench, Hob-Lench, Ach-Lench, Stanton, Long-Marston, Welford*, in the several Counties of *Worcester, Gloucester, and Warwick*, against the Bill; and that the Committee had considered of the other Petitions referred to them, and had examined the Allegations of the Bill, and found the same to be true; and that the Committee had gone through the Bill, and made several Amendments, thereunto, which they had directed him to report to the House; and he read the Report in his Place, and afterwards delivered the Bill with the Amendments in at the Table, where the Report was read, and several of the Amendments being read a Second time, one of them was disagreed with, and others were (with some Amendments to One of them) agreed unto by the House.

Ordered,

That the further Consideration of the said Report be adjourned till to Morrow Morning.

Mr. *Speaker* reported, That he did with the House Yesterday attend His Majesty, and presented to His Majesty their humble Representation; and that His Majesty was pleased to give this most gracious Answer thereunto, viz.

Gentlemen,

I Cannot but be very well pleased with this Representation, which must give General Satisfaction to all my People, by removing those groundless Jealousies and Apprehensions, which have been propagated and dispersed throughout the Kingdom.

The Happy Effects of the Flourishing State of the Publick Credit are too sensibly felt and seen, not to be confessed and acknowledged by every Body:

And the Provision made, for gradually discharging the National Debt, is now become so certain and considerable That nothing but some unforeseen Event can alter or diminish it, which gives us the fairest Prospect of seeing the Old Debts discharged, without any Necessity of incurring new Ones:

And you may be assured That it shall be My particular Care and Study to maintain and preserve the Publick Credit, To improve the Sinking Fund, and To avoid all Occasions of laying any new Burthens upon my People.

Ordered,

Resolved,

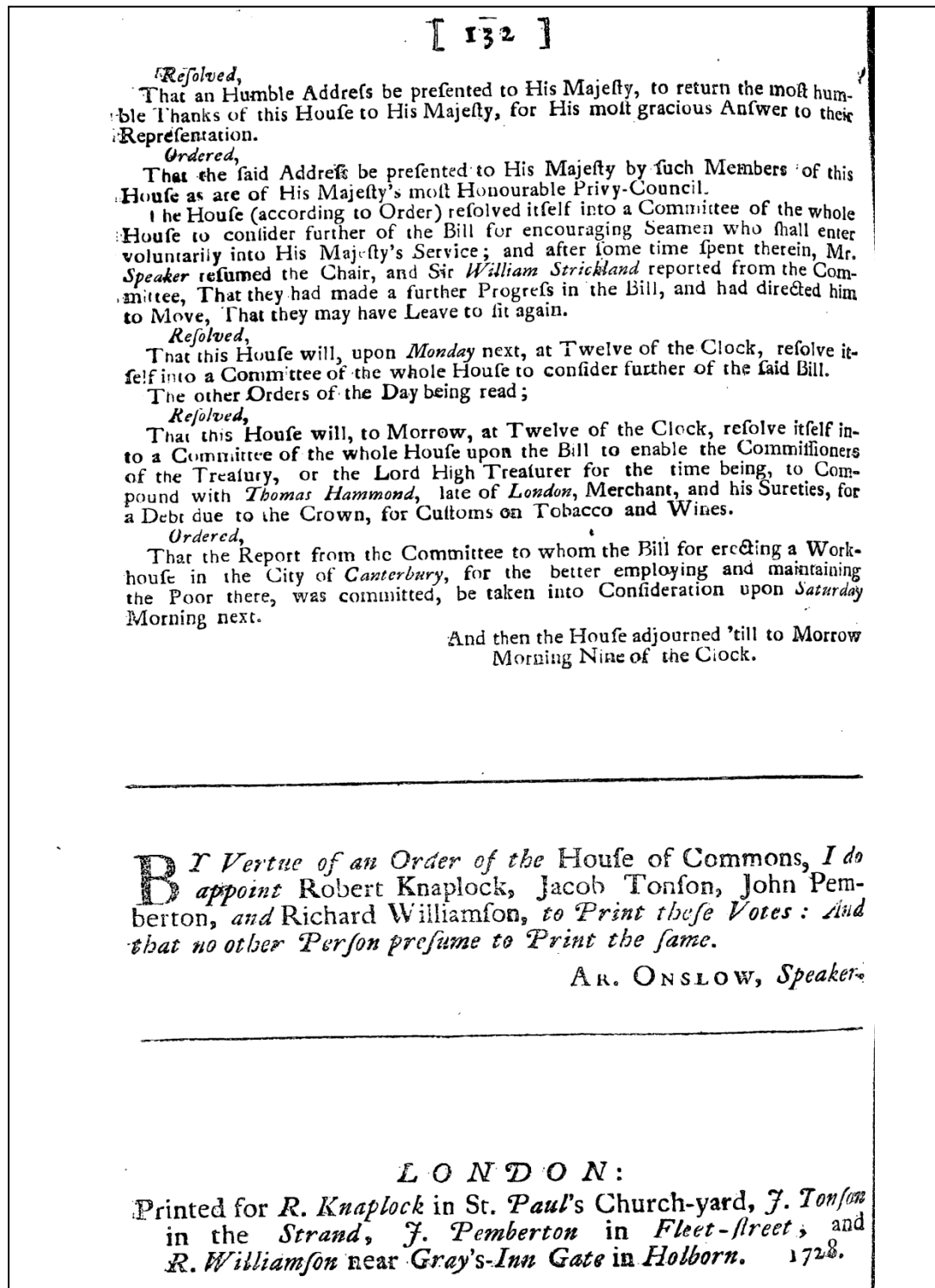


Figure 6 Example of Westminster House of Commons Votes (11 April 1728)

Those who read the Votes knew how to interpret them: for example, a resolution agreed *nemine contradicente* followed by a series of orders was an indication that there had been little debate and

the matter had been agreed unanimously and quickly.¹⁸⁸ Similarly, as Southwell pointed out to Secretary of State the earl of Nottingham on 27 November 1703: 'from the printed votes [you will see] the great stress laid on the two bills of popery and linen manufacture. They were brought [to the lord lieutenant] by the whole House, and the Speaker was ordered to enlarge upon them'.¹⁸⁹ A debate in May 1716 showed the extent to which the House was conscious of the effect of the published *Votes*. Charles Dering, a former Irish MP, kept Perceval, by then also a former MP, informed of developments in the Commons. Dering said that just before the House was to adjourn Joseph Allen had pressed for accounts to be produced to show how voted credits had been used. Chief Secretary Martin Bladen had replied that he was ready to do so and

that he would engage upon their next meeting to lay all those papers before them, that he supposed this would be sufficient ... and he hoped that the gentleman would not insist on it being in the *Votes* because it would look like [distrust?] and some degree of reflection on the Government.... Allen replied that it was necessary to have it in the *Votes* because otherwise it could not be made public enough. There were several speeches of both sides ... and to show them without doors what a concern they had that the money granted by the House of Commons should be applied in a proper manner as well as in a frugal one.¹⁹⁰

As already noted, the printed *Votes* were not exact facsimiles of the manuscript Journals: not only were items omitted to save space but, on the template of the Westminster *Votes*, some information was not included as a matter of course—for example, the tellers in divisions. In addition, on a few occasions, especially in the 1690s, where either the House had second thoughts or did not want to provoke the government, there were items it resolved not to print.¹⁹¹ The first ever published *Vote*—for 10 October—recorded that a debate about Members' entitlement to free post had been adjourned 'to a further day'.¹⁹² The debate concluded on 13 October 1692 with a resolution that Members had 'an undoubted right and privilege ... to have their letters post free'.¹⁹³ On 17 October 1692 Serjeant Brodrick moved that the *Vote* and debate, which had taken place four days earlier 'may not be printed amongst the *Votes* of this House: that the said *Vote* may still remain in the

¹⁸⁸ Southwell explained to Lord Treasurer Godolphin that: 'Mr. Tennison made the motion against Mr. Asgill's book which ... by the proceedings herewith sent ... was not long in debate' (*SP*, 63–363 f.67(stamped 262) (25 Sep 1703)); the entry in the *CJI* is '*Resolved, Nemine contradicente*, that the ... book contains in it several heretical and blasphemous doctrines and positions, contrary to the Christian religion ... and destructive of human society. *Ordered*, That the ... book be burnt by ... the common hangman ... *Ordered*, That Mr Asgill (being out of town) do attend in his place'. ((II), p.317).

¹⁸⁹ *SP*, 63–363(stamped 49)

¹⁹⁰ *BL*, *Add.* 47,027, f.149

¹⁹¹ There are no examples in *CJI* after the 1690s of orders not to print business in the *CJI*.

¹⁹² *CJI*(II), p.12; at Figure 4

¹⁹³ *CJI*(II), p.15

Journals of this House, but there is not necessity for printing the same'.¹⁹⁴ No printed *Vote* for 13 October has been located and given Brodrick's intervention there appears to have been time to amend it before publication. Lord Lieutenant viscount Sydney explained in a letter to Nottingham that the government's response may have caused the re-consideration:

I had some taste of [Members'] disposition in the business of their post letters which when I had ordered to be passed free; they nevertheless passed a vote declaring it to be their undoubted right and privilege to have their letters free, although they could have no title to it but by the concession of the government. I took no notice at all of this because they on second thoughts ordered the vote not to be printed.¹⁹⁵

Within a week there was another instruction not to print an order that the Committee of Elections and Privileges could sit whenever it saw fit and that it should give priority to examining new charters.¹⁹⁶ Those contesting elections may not have been content with the increased delay. The next example was in August 1697 when the committee examining English legislation that could be replicated in Ireland reported in favour of an act for burying the dead in wool and House ordered that it 'be not put in the printed *Votes*';¹⁹⁷ the reason was political sensitivity as Westminster prepared to restrict Irish woollen exports. It therefore appears that there was both awareness of the impact of publication and some caution about using it.

Printing the *Votes* also added a new formal method of communication between the House and the administration.¹⁹⁸ As noted, Sydney took the view that he could ignore resolutions agreed by the House but not printed and went to some effort to have unpalatable items left out of the published *Votes*. The scruples the Commons had about publicising their claims to free postage evaporated when it came to their 'sole right' claim in respect of supply. Publication of the claim in the *Votes* provided a platform for announcing and broadcasting the claim, which added to Sydney's indignation: when he saw the claim in print, he 'could do not less than show that these assertions in prejudice of the crown of England were not allowed by me, and therefore I sent for the House of Commons, and having told them of their error I caused my protest to be entered in the Journal of the Lords'. He then prorogued parliament. He was worried how the claim published in the *Votes* would play in the English parliament which

¹⁹⁴ *CJ*(II), p.18

¹⁹⁵ *SP*, 63–354 ff.191-92(stamped 192-94 (6 Nov 1692))

¹⁹⁶ *CJ*(II), p.22

¹⁹⁷ *CJ*(II), p.163; this printed *Vote* is available and the item on wool is not included (*SP*, 63–359 ff.343-46(stamped 117-18); similarly, the order not to print is not in printed *Vote* for 10 Aug (f.349(stamped 124)).

¹⁹⁸ In addition to addresses and delegations.

would think it hard to be excluded from the power of preparing money bills for this kingdom by a vote of the Commons here, and ... letting it pass might give them ground of discontent; and I think it absolutely necessary to give a check to such rash assertions.¹⁹⁹

In 1705 the Irish Commons took exception to a paper from the Lower House of Convocation on tithes which it took as an affront to its prerogatives on finance. After several exchanges Southwell explained to Nottingham:

At last [Convocation] sent us a paper excusing and explaining their former [paper], which was voted satisfactory and thereupon we took off some votes from our Journals which had been made upon that occasion. But whereas they expected that we would also give them back their first paper, that so no memory might remain upon our Journals of their mistake, the House did divide upon the question which was very mixed ... so that it was carried to enter both the first and last paper upon the Journals.²⁰⁰

The Commons had no qualms about publicly recording and broadcasting its triumph over Convocation.

The move to printing the *Votes* was part of a shift to greater publication and the production of up-to-date material. On 18 November 1695 the House summoned a printer 'to give account why he has not printed the several Acts passed this session'.²⁰¹ At the end of the elongated 1695–97 session the lords justices said they would 'present everyone [Member] with a book of the acts of this session of parliament, when ... printed', giving the appearance of a memento of a special occasion.²⁰² Despite its length and fragmentary calendar it was one of the most productive legislative sessions if acts passed are measured against sitting days (see Appendix 6.8.2). When the 1703 parliament met, one of its early decisions was to appoint a committee to view the rolls of the acts of parliament to establish which needed to be printed.²⁰³ There were also printed lists of Members; those for the parliaments of 1713, 1715 and 1727 survive.²⁰⁴

From 1703 the House ordered the printing of some reports which fell into two categories, each of which had a purpose. The 1713 parliament illustrates the first when it agreed to print:

- a) the report of the Committee of Privileges and Elections on the contested election for Randalstown;²⁰⁵

¹⁹⁹ *SP*, 63–354 f.192(stamped 194)

²⁰⁰ *SP*, 63–365 f.60(stamped 143) (24 Sep 1692)

²⁰¹ *CJI(II)*, p.116

²⁰² *CJI(II)*, p.236

²⁰³ *CJI(II)*, p.325

²⁰⁴ *BL*, *Add.* 34,777 ff.46, 49, 55

²⁰⁵ *CJI(II)*, pp.762–64; the initiative for publication may have come from the participants.

- b) the committee report with papers relating to the prosecution of Edward Lloyd and Dudley Moore, a case used by the Commons to attack the Lord Chancellor Phipps;²⁰⁶ and
- c) the Speaker's report of the case of the city of Dublin.²⁰⁷

The latter two, in particular, represented the opening of a new front by the House in its vigorous and highly political battle against Phipps as it actively put its case outside parliament.²⁰⁸ The second category had a more constructive purpose and developed in the 1720s with a focus on the examination of major administrative problems:

- a) a 1723 committee report on sheriffs' accounts and the fines imposed by the Court of the Exchequer on sheriffs;²⁰⁹
- b) a report presented in November 1729 on gaols and prisons;²¹⁰ The report painted a picture of violence, extortion and squalor, which roused concern in the committee. On the same day the committee requested leave for a bill for the relief of imprisoned debtors, the better regulation of gaols and the punishment of arbitrary and illegal practices of gaol keepers. The publication appears to have been to assist the legislation which was transmitted and returned to the Commons only to falter in the Lords.²¹¹
- c) a report presented in December 1729 on the maladministration of justice in Dublin.²¹² This report was focused on a group of magistrates and their clerks extorting fees. The subsequent legislation—for better regulating the fees of justices of the peace, and disabling two aldermen from acting as justices of the peace—made it on to the statute book.

The first category is partisan, aimed at political opponents²¹³ and follows a pattern detected in England,²¹⁴ while the two 1729 reports and were aimed at achieving legislative change to address

²⁰⁶ *CJI*(II), pp.770-71, cclxxiii-cclxxvi

²⁰⁷ *CJI*(II), pp.773, cclxxvi-cclxxix; the report in the *CJI* appears to be a summary of evidence against Tories and Phipps and drafted by the Speaker on behalf of the House itself; it was another plank in the House's attack on Phipps. It was published as *The State of the Case of the City of Dublin, As it appear'd on the evidence given before the House of Commons, on Monday the 21st of December* (Dublin, [1713?]). There was a sequel in 1715 when the House ordered publication of a report from a select committee that examined the Dublin mayoral controversy producing a series of resolutions that amounted to an all-out attack on the main figures in the previous judiciary and executive ((III), pp.101-03, lxxviii-ciii).

²⁰⁸ There was a counter-blast in print: Helsham's *Long History*.

²⁰⁹ *CJI*(III), p.360; the report is at pp.cclxxiii-cclxxiv; no contemporaneously printed copy has been located.

²¹⁰ *CJI*(III), p.604; the report is at pp.cclxxvi-cccxc; no contemporaneously printed copy has been located.

²¹¹ Bill no.1236 (*ILD*)

²¹² *CJI*(II), p.615; the report is at pp.cccxci-cccxciv; no contemporaneously printed copy has been located.

²¹³ In addition to the three 1713 printed reports, there were two earlier reports ordered to be printed. In 1707 a report from a committee, chaired by William Conolly, examining allegations that 60 creditors were owed substantial sums for providing clothing for several regiments; the committee recommended a heads for a private bill. The financial impropriety was part of the backwash from the fall of Sir William Robinson, an associate of Ormond (see D.W.

an identified problem or injustice. These two later reports sit within a type of publication that, although they had antecedents going back to the end of the seventeenth century,²¹⁵ became common in the 1720s: the report which identified, and attempted to analyse, a social or economic problem and offered a remedy.²¹⁶ The solution often required legislation or a degree of self-assertion, to take on British interests, and so the Members of the Irish parliament was firmly the target. The publications ensured that the political wind came from the *patriotic* direction²¹⁷ and that there was a focus on addressing economic and social problems, both of which were given a stimulus by the publications which fuelled the arguments that were taking place in the Commons on the nation bank and Wood's halfpence.²¹⁸ The two 1729 reports are not exceptional in that committees had examined 'social' issues but they show a new strategy from those pressing for change, that is making their case in print to those out-of-doors and to show them that the Commons was addressing the issue. The pattern had been set by Westminster.²¹⁹ The goals report follows closely in the footsteps of a Westminster committee report which was reprinted in Dublin in May 1729.²²⁰ Finally, it may be coincidental but the 1729 reports were authorised shortly after Gore took over the speakership and may indicate a new approach to put over its case in the print culture of Dublin that was thriving in the 1720s.

Hayton, *Ruling Ireland, 1685–1742* (Woodbridge, 2004), p.90 and T.C. Barnard, *A New Anatomy of Ireland. Irish Protestants 1649–1770* (New Haven, 2003), p.161). The heads were rejected by the Irish Privy Council (Bill no.2589 (*ILD*)). The report is in appendix to *CJI*(II), pp.clxxii-clxxvi; no contemporaneously printed copy has been located but it was printed as the *CJI* record that as there were several mistakes in the printed version it had to be reprinted—pp.537, 544, 564. The second report ordered to be printed in Aug 1711 was from a committee inspecting examinations given by Dominic Langton, who made allegations against Whig gentry, and this clearly fell into the first category—pp.712, 717, cclviii-cclix; no other copies of report appear to be available.

²¹⁴ See *HoP*(1690)(I), pp.371-73; in contrast to Ireland, printing reports to attack opponents tended to be a Tory weapon.

²¹⁵ For example, the works of Sir Francis Brewster such as *A Discourse Concerning Ireland and the Different Interests thereof; in answer to the Exon and Barnstaple Petitions; shewing that if a Law were enacted to prevent the exportation of Woollen Manufactures from Ireland to Foreign Parts, what the consequences thereof would be both to England and Ireland* (London, 1698)

²¹⁶ For example, Jonathan Swift, *A Proposal for the Universal Use of Irish Manufacture* (Dublin, 1720); James Maculla, *The Lamentable Cry of the People of Ireland to Parliament. A coinage, or mint, proposed. The Parliament of Ireland's address, and the King's ...* (Dublin, 1728); *The State of the Case of Great Numbers of Gentlemen, Merchants, Tradesmen, Widows, and Other Unfortunate Persons, Confined for Debt in the ...* ([Dublin], [1729?]); *The Case of the Foundlings of the City of Dublin; humbly recommended to the consideration of the Parliament* ([Dublin], [1730])

²¹⁷ For example, Thomas Prior, *A List of the Absentees of Ireland, and the Yearly Value of their Estates and Incomes Spent Abroad. With observations on the present state and ...* (Dublin, [1729]) and Molyneux's, *The Case of Ireland* was reprinted in 1720.

²¹⁸ See bibliography: Private correspondence, diaries and memoirs, collections of speeches, pamphlets, etc.—anonymous, Swift's *Drapier letters*.

²¹⁹ For example, *Report of the Committee Appointed to Inspect the Poors Rates and the Scavengers Rates, within the Cities of London and Westminster...* (London, 1715), a committee chaired by Robert Molesworth.

²²⁰ *A Report from Committee Appointed to Enquire into the State of the Goals of England: relating to the Fleet prison...* (London, reprinted Dublin, 1729)

The Commons controlled aspects of its own history and could order records erased. On 21 June 1661 the House ordered a select committee to search its records for orders 'that do intrench [impugn] upon the honour and integrity of the late Earl of Strafford' and other leading figures of his regime.²²¹ The committee reported a list of excisions, all bar one of which the House agreed, and the committee was ordered to see that the clerk carried them out.²²² This took the form of crossing out entries,²²³ which left them legible and therefore they were reprinted in the Journals. The action in 1661 was against specific decisions, not the legitimacy of the parliament that took the decisions. In contrast in 1695 the Irish parliament enacted legislation ordering that the records of the 1689 Parliament be 'publicly and openly cancelled and utterly destroyed',²²⁴ a procedure that was used to show public abhorrence of traitorous and heretical publications. The destruction of the parliamentary records was popular with the Protestants of Dublin who lit 'bonfires in the streets for joy that the act of attainder and other proceedings ... were destroyed'.²²⁵ The 1689 parliament had outlawed 2,000 people in an act of attainder and according to a note in the Southwell papers—possibly written in the mid 1690s—the correct course would have been for parliament to reverse the attainders and those Members affected to withdraw while the business was transacted.²²⁶ A retained record carried not only memory but some recognition of legitimate authority. Recognising any legality in the proceedings of the 1689 parliament presented subsequent 'Protestant' parliaments with uncomfortable problems: their positions and land titles rested on Irish statutes and what one parliament could grant another could take away. From their viewpoint therefore the best course was a direct attack on the legitimacy of the 1689 parliament and the complete eradication of its actions. This action underpinned by Irish statute not only declared its proceedings null and void but also ensured that none of the 1689 Parliament's

²²¹ *CJI(I)*, p.411; see also pp.417, 426.

²²² *CJI(I)*, p.426; exception was 1640 *Petition of Remonstrance*.

²²³ *CJI(I)*, p.427 and see fn p.209.

²²⁴ 7 William III, c. 3(1)

²²⁵ *BL, Add 28,879 f.175* (Gerard Bor to John Ellis; 3 Oct 1695) Attitudes to the 1689 Parliament moved from treating it as a legitimate, albeit misguided, parliament to an unlawful pretence. Robert Rochfort, attorney general from 1695, opposed 'making void the attainders and taking away the records [and had] opposed it in Parliament, it being his opinion they ought to remain as undeniable monuments of that Parliament's cruelty and oppression'.

²²⁶ The undated note cited a precedent from first year of Henry VII when the question of how to annul attainders of those elected to a new parliament was put to the judges in England. They had 'resolved that so many of the knights or citizens or burgesses as stood then attainted of treason, should depart out of the Parliament House ... but as soon as the act of parliament was reversed and annulled, that they ... should come into their places, and then may proceed upon anything there moved lawfully as lawful persons. For it is not convenient that they, who are attainted, should be in the places of the lawful judges' (*BL, Add. 34,773 f.27*).

decisions would stand as law or precedent or even examined.²²⁷ In addition, the destruction of the records meant the Protestant elite could reassert their claims to confiscated lands on the basis of Irish legislation made in the Irish parliament, brushing aside the earlier English statute reversing the 1689 legislation.²²⁸

2.7 Conclusions on staff and clerical organisation

The staff and clerical organisation of the Commons shows similarities, and some differences, between the Dublin and Westminster Houses. The Irish officials came from a narrow, educated Protestant group (New English and in several cases first generation or newly arrived). They knew each other, bought and traded offices, attended the same churches and were often related—both in terms of passing offices from one generation to another and by marriage with their contemporaries. Superficially the picture appears venal but the office-holders, for the most part, appear to have been educated and trained (as lawyers) to a level that fitted their responsibilities and to have attended to their duties in person, competently and consistently. Similarly, the exploitation of the appropriation process, to secure their remuneration, looks questionable but it represented a solution not readily available at Westminster to a pressing problem and once in place was used within reasonable limits. Although details are sketchy, the career of Bruen Worthington may show some of the operation of the Commons. He had an English (and probably legal) background and arrived in the Commons in 1704/5 when the procedures of the Commons were being brought into closer alignment with Westminster.²²⁹ He operated under the patronage of the Whigs and, in particular, William Conolly. When he was out of post during the 1713, there was a discernible drop in the quality of the records produced by the House of Commons. His purchase of the patent for the clerkship in partnership with another clerk, Isaac Ambrose, appears to have generated endorsement beyond the Whigs.

In contrast to Westminster, there appear to have been no outstanding innovators but English procedures and changes were replicated and applied competently. Although based in Dublin and owning property in the surrounding counties, many officials in this period had strong links with England in terms of relatives and land-holdings and their own education and that of their offspring.

²²⁷ In terms of intention in 1695 it was successful as the 1689 parliament deficient in records has been left *sui generis*.

²²⁸ 1 William III and Mary, c. 9 (session II) [Westminster]

²²⁹ Bergin, 'Irish Legislative Procedure', pp.74 and 76, points to 'inadequacies in the clerical organisation of the commons' in the 1695 and 1703 but there is no consistent evidence of clerical shortcomings in the 1690s.

The easy availability of Westminster's printed *Votes*, facilitated the copying of procedures (and may have obviated the need for up-to-date manuals). The production of the Irish House's own *Votes* allowed it to communicate what it was doing to those outside the House and to put in the public domain what it was doing and to build its authority, status as well as broadcasting what it was achieving and could do.

3 The corporate identity and functions of the House of Commons



Figure 7 Parliamentary constituencies 1691–1800¹

This chapter examines how the House of Commons thought of itself, its privileges as a body and of its Members and how it worked with the other components of the Irish constitutional and political structure. The chapter starts with the membership of the Commons and an examination of parliamentary elections, where the disenfranchisement of Catholics solidified from the 1690s

¹ Map from Moody and Vaughan, *New History*, p.73.

through a mixture of law and practice. The chapter reports on a sample of Members' backgrounds, which demonstrates the rapid establishment of a monopoly on membership of the House by an oligarchy of intermarrying Protestant families. Two aspects of privilege are examined—Members' limited immunity from legal processes and the House's own jurisdiction—and how privilege developed in the forty years after 1692—often following changes made at Westminster. How the Commons treated precedents, and largely set aside its own precedents, is examined. The chapter reviews the development of procedures by the Commons from 1692 to 1730, in particular how Westminster's procedures were adapted and adopted.

3.1 Membership of the House of Commons

The map at Figure 7 sets out Irish parliamentary constituencies after 1692: boroughs and counties. This section draws on the extensive biographical material now available on Irish MPs.²

Members returned at general elections who had sat in a previous parliament											
General election Type of constituency ³	Total MPs	1695		1703		1713		1715		1727	
		Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%
Counties	(64)	44	69%	47	73%	49	77%	48	75%	47	73%
Boroughs (100+ voters)	(58)	37	64%	26	45%	28	48%	38	66%	34	59%
Boroughs (20–100 voters)	(44)	29	66%	27	61%	26	59%	29	66%	26	59%
Boroughs (<20 voters)	(134)	75	56%	73	54%	89	66%	98	73%	82	61%
Total	(300)	185	64%	173	59%	192	63%	213	70%	189	63%

Table 4 Members returned at general elections who had sat in a previous parliament

² Primarily, *HIP*, but also biographies of parliamentarian figures such as Conolly and Coghill (see bibliography).

³ The data on size of electorate are approximate; the figures come from *HIP(II)*, which often draws from the late eighteenth and early nineteenth-century sources.

Members returned at general elections whose fathers had sat or were sitting in Irish House of Commons											
General election	Total	1695		1703		1713		1715		1727	
Type of constituency	MPs	Nos.	%	Nos.	%	Nos.	%	Nos.	%	Nos.	%
Counties	(64)	3	5%	8	13%	14	22%	15	23%	31	48%
Boroughs (100+ voters)	(58)	4	5%	10	17%	15	26%	15	26%	23	40%
Boroughs (20–100 voters)	(44)	3	7%	9	20%	12	27%	13	30%	17	39%
Boroughs (<20 voters)	(134)	7	5%	17	13%	29	22%	40	30%	61	46%
Total	(300)	17	5%	44	16%	70	24%	83	27%	132	43%

Table 5 Members returned at general elections whose fathers had sat or were sitting in House of Commons

On membership of the Commons, as Table 4 indicates, typically around two thirds of Members returned at a general election had sat in a previous parliament. The highest figure was 70% in 1715, which is not unexpected given that the previous general election had been in 1713. Of the 30% who were new party affiliation played a greater part in the turnover than age, exhaustion or indifference. In county seats the degree of continuity of membership across the whole period was higher than in boroughs: at around 75% compared to around 60%. It was not usual for county Members to begin in a borough seat or to have a borough seat in reserve when trying for a county seat so ensuring continuity of membership. Around 29 MPs (10% of the total) returned in 1692 had sat in the Irish parliaments in the 1660s or 1689; the number rose to 33 at the start of the 1695 parliament.⁴ How much parliamentary experience they brought with them is difficult to measure and it is to be doubted that, when the Commons was operating more regularly from 1695, the expertise gained 30 years previously was decisive in a parliament seeking to emulate the Westminster House of the 1690s. One characteristic of this group, however, was support for Lord Chancellor Porter, which points to this older generation having a broadly Tory outlook with an impact that was political rather than procedural.⁵

Once the Protestant Anglo-Irish regime was restored Table 4 shows a high degree of continuity emerging from 1695 onwards (though often not continuity in the same seat). The families which provided the vast majority of Members from 1692 were closely related by blood and marriage. One proxy that can be used to measure the development of the hereditary (and oligarchic) hold on the

⁴ See Appendix 6.11.

⁵ As above

Commons is the number of MPs whose fathers were also Irish MPs, which is set out at Table 5.⁶

The table shows a steady increase in filial hereditariness from 1692. The pattern grew especially in county seats when at the 1727 general election nearly half the county MPs were the sons of previous MPs. General elections brought all those permitted to participate in the electoral process into play and deals could be made and candidates unsure of success in one seat could secure a second reserve election. This contrasted with by-elections which presented fewer opportunities and less scope to manage the processes. The 160 by-elections between 1715 and 1730 throw up a contrasting set of figures to those in the two previous tables (see Table 6).

Members returned at by-elections between 1715 and 1730			
Type of constituency ⁷	Total no.	Sat in previous parliament	Son of Member
By type of constituency			
Counties	(34)	32%	71%
Boroughs (100+ voters)	(30)	13%	47%
Boroughs (20-100 voters)	(23)	13%	30%
Boroughs (<20 voters)	(73)	22%	41%
By cause of vacancy⁸			
Vacant by selection ⁹	(27)	41%	9%
Death	(115)	16%	54%
Ennoblement	(13)	28%	67%
All by-elections	(160)	21%	47%

Table 6 Members returned at by-elections between 1715 and 1730

Those elected at by-elections caused by death or ennoblement of a sitting MP were significantly less likely to have sat in a previous parliament than those returned at a general election; these events provided an opportunity for a "new" Member. In contrast the overall pattern of filial hereditariness is similar with those returned for counties and, unsurprisingly, those replacing an MP going to the House of Lords were likely to be the son of an MP. Vacancies by selection had,

⁶ The figures are provided to illustrate one aspect of a growing oligarchic rigidity in the system. Many family members other than sons became MPs—sons-in-law, brothers, nephews, etc.

⁷ The data on the size of electorate are approximate; the figures come from *HIP(II)*, which often draws from the late eighteenth and early nineteenth-century sources.

⁸ Two categories have not been included as the numbers are too small to be statistically significant: expulsions and vacancies by resolutions.

⁹ Vacancies when MPs returned for more than one seat decided which seat they wanted to sit for. These vacancies occurred shortly after a general election.

however, strikingly fewer sons of MPs returned as these seats were likely to be filled by those with sharp elbows who failed to get in at the general election.

Over the 40 years from 1692 a slowly growing number of Irish MPs also sat at Westminster. The usual direction of travel was from Dublin to Westminster for those who had the connections and could afford it.¹⁰ There were about 10 moving in the opposite direction from Westminster. Of these Sir Richard Levinge sat for Chester from 1690 and was an active MP.¹¹ He was also a lawyer and so in terms of procedural knowledge was one of the most qualified for the post of Speaker in 1692.

As well as the national picture an analysis based on the biographies in the *HIP* of the Members who sat for three contrasting counties has been carried out: Down, Kerry and Leitrim.¹² The following points were noted:

- a) from 1692 the county seats were always occupied by a landowner often holding substantial lands in the county, worth more than £500 per year with good local connections, and about half of the MPs at least had been to university—nearly always Trinity College Dublin;
- b) many of the major 'county' landowners also held lands outside the county and, in a few cases, outside Ireland;
- c) the county families were frequently in competition for the county seats and often had a borough seat in reserve usually within the county;
- d) MPs returned for boroughs showed greater variation in the background than those for county seats with fewer local links and some returning people with no links—most often, lawyers; there was some evidence they increased between 1692 and 1730;¹³
- e) some borough MPs moving around more often than those in county seats and also between counties¹⁴ (but Down was an exception with many of the changes internal to the county which may have been driven by unstable alliances of leading families);¹⁵ the type of borough appears to have little bearing on this pattern;

¹⁰ The most obvious were MPs of the Brodrick family: Alan Brodrick became MP for Midhurst in 1717 and his son, St. John, MP for Bere Alston in 1721. The pattern can also be seen with the Hamiltons, Annesleys, Southwells, Percevals.

¹¹ *HoP(1690)(IV)*, biography of Levinge; he was part of a team of lawyers instructed by Whitehall to prepare bills for the forthcoming session (*HO Letter Book (Secretary's)* 2, p.388 (*CSPD: William and Mary, 1691-2—9 Mar 1691/2*)).

¹² The counties were selected to give a geographical spread and contrast

¹³ For example, Bangor and Newtownards but this was not case in Carrick or Tralee

¹⁴ Yasushi Aoki, 'Members of Parliament and their Connections to Constituencies in the Eighteenth Century: a study in quantitative political history', *Parliaments, Estates and Representation*, vol. 18, issue 1 (1998), pp.71-82

¹⁵ *HIP(II)*, p.219

- f) those who moved seat show two types—those who went from borough to borough and those aiming for a country seat usually in the same or an adjoining county;
- g) those sitting for county seats tended not to take office;
- h) those elected in 1692 included two physicians—a profession not often represented in later parliaments—possibly indicating that the traditional pattern of landowner, lawyer and placeman was not in full operation;¹⁶
- i) there appear to be been more MPs with a military background at the start of the period than towards the end;
- j) three Members may have sat in the Irish parliament in the 1660s; and
- k) six Members surveyed sat at Westminster (five of these had seats in county Down) pointing to some parts of the country having greater links with England and Wales than other parts.

3.1.1 Elections

As in England, the Commons exercised effective oversight of its own election processes—in some cases determining who had the franchise¹⁷—and decided disputed elections. The House was alert to any encroachment of its prerogatives and exclusive authority over elections. On 27 June 1709 the Commons reminded all those responsible for conducting elections that:

It is the duty of every sheriff and magistrate or other officer having the return of Members to serve in parliament, to return the person elected by the majority of the votes of the electors, and that denying so to do, on pretence that the person elected is not qualified to serve, or any other pretence whatsoever, is illegal and destructive of the constitution of parliament.¹⁸

It is not possible to say with certainty how many contested elections took place in the 150 constituencies returning Members to the House of Commons¹⁹ but the Journals are a good source on election processes, particularly where there was a petition and the dispute came to the House for decision. Most disputes arose from a contested local election. (This section is built on the material in the Journals and does not attempt a wider review of available material, which would require a discrete study.)

¹⁶ This chimes with Connolly's point that, when parliament was summoned in 1692, there had not always been time for dominant proprietorial interests to establish the control they were eventually to enjoy (Connolly, *Religion*, p.98).

¹⁷ *CJ(II)*, p.766; in fiercely the contested Dublin city election of 1713 the case was heard at the bar of the House, which resolved that the right of election was in the freemen and freeholders of Dublin only. See also p.769.

¹⁸ *CJ(II)*, p.617

¹⁹ J.H. Plumb, *The Growth of Political Stability in England 1675–1725* (London, 1967), p.86 suggests that 75% of contested elections ended up before the Westminster Commons. On this speculative basis and the figures in Table 7 there would have been about 20 contested elections in 1695 and about 50 in 1727 (that is in a third of constituencies).

General election/ Session (by- elections)	No. of writs issued	Contested in House of Commons ²⁰	Petition withdrawn ²¹	Decision in favour of sitting Member ²²	Decided in favour of petitioner
1692	150	7	0	0	2
1692	20 ²³	0	0	0	0
1695	150	17	1	10	2
1695–97	26	4	0	1	2
1698–99	9	1	0	1	0
1703	150	11	3	5	1
1703–04	12	1	0	1	0
1705	8	1	0	0	1
1707	18	6	1	2	1
1709	10	6	0	2	1
1710	7	2	0	1	1
1711	11	0	0	0	0
1713	150	19	1	4	3
1713	8	0	0	0	0
1715	150	19	5	14	5
1715–16	14	0	0	0	0
1717	15	3	1	1	0
1719	13	5	0	1	3
1721–22	25	2	0	1	1
1723–24	18	2	0	2	0
1725–26	29	3	1	1	1
1727	150	37	7	18	11
1727–28	23	0	0	0	0
1729–30	20	8	6	2	0
Total	1,186	154	26	67	35

Table 7 Election disputes brought to House of Commons

Table 7 shows that the number of contests brought to the House increased in the 40 years from 1692: more than doubling from 15 after the 1695 general election to 37 after the general election of 1727. Of itself this is probably a sign of more contested elections. By-elections caused by the death (or until 1704 resignation) of an MP (but not double elections after a general election)²⁴ produced proportionately more frequent contests and disputes than general elections (though

²⁰ A degree of judgment has been exercised in counting contests: obvious duplicate petitions and petitions supplying supplementary information have been discounted as have most counter-petitions where the parties were identical.

²¹ Only cases where leave to withdraw was clear are included; the outcome of many petitions is unclear from *CJI*.

²² Includes cases where the petition was withdrawn.

²³ Mostly by-elections triggered by MPs returned for more than one seat deciding which seat they wanted to sit for.

²⁴ See fn 116 below for the distinction between 'double election' and 'double return'.

there is some variation). One reason for this increase after 1715 may have been the realisation that elections would become less frequent—general elections became a once in a generation opportunity. A petition provided a second chance and passed the decision to the Commons. The House became more efficient at processing disputes: by the 1720s, compared to the 1690s, fewer disputes peter out unresolved in the Journals (though this may have been a product of earlier inefficient record-keeping or possibly unrecorded withdrawals). It is not obvious from the data in Table 7 but the contests became more complex and protracted with double returns (that is returning more than the required two MPs),²⁵ counter-petitions and repeat petitions. This trend was, from 1715, matched by a steep increase in the number of recorded withdrawals of petitions—perhaps pointing to local factors driving contests rather than the party rivalry in the 20 years from 1692. The outcome of a petition tended to favour the incumbent but the success rate was far from hopeless for petitioners, at around 35%.²⁶

Electoral procedures did not start afresh in 1692 and had been developed over the previous century.²⁷ For by-elections the process started when the Speaker issued a warrant to the clerk of the crown for the election. In 1665 the House tightened its control when it ordered that 'no warrants shall hereafter issue to prepare writs for electing and returning Members ... but what shall be granted by the House, upon a public motion first made'.²⁸ The clerk of the crown was expected to send the writ immediately by a 'trustworthy messenger' to the sheriff of the county.²⁹ (The time between the order to issue the warrant and the Member taking his seat could be as short as a week.)³⁰ Sheriffs executed the writ by organising the election for county seats. He, or in the case of borough elections the officers to whom he passed the writ, would issue a precept for the election. The officers executing the precept then gave public notice of the time and place of the election.³¹ Elections took place within a few days, and at the venue the precept and writ were read.³² The

²⁵ See fn 116 below for the distinction between 'double election' and 'double return'.

²⁶ Excludes counter-petitions and duplicate petitions

²⁷ *CJI(I)*, p.546

²⁸ *CJI(I)*, p.660

²⁹ *CJI(I)*, p.510

³⁰ *CJI(II)*, p.243; two MPs took their seats on 3 Oct 1698, the warrant for writs had been issued on 27 Sep. A tight timetable would be likely to curtail local contests, through the arrival of writ was unlikely to be the first notice of an election.

³¹ For examples of posting, see *CJI(II)*, pp.381-83, 612.

³² For example, *CJI(II)*, pp.47, 382. The venue could be some municipal building or communal area out of doors such as church-yard (*II*), p.381).

candidates were nominated at the meeting and, if the election were contested, the presiding officer might first attempt election by acclamation, but candidates could demand a poll.³³ If the electorate was large (more than 500) it might take more than a day to carry out the poll.³⁴ At the conclusion of proceedings, especially following a contested election, the victor could be hoisted into a chair and carried in triumph.³⁵ The presiding officer attended to the bureaucracy drawing up, signing and sealing an indenture³⁶ with the name of the men (or man) elected, and this was attached to the writ and sent back to the clerk of the crown, who held the definitive record. A decision of the House to alter the outcome—on a successful petition—required the clerk to attend to alter the indenture.

The way to challenge the result was to petition the Commons. A challenge could either be heard at the bar of the House or, more often, by the Committee of Privileges and Elections. From 1695 reports from the committee appear in the Journals.³⁷ The most frequent challenges³⁸ were:

- a) arguments about who was entitled to vote;
- b) allegations of vote buying;
- c) bias by those carrying out the poll—such as the sheriff refusing to accept the completed indenture by borough officers, preferring to attach one from a rival group;³⁹
- d) inadequate notice of polls;⁴⁰ and
- e) premature, or confusion about the, closure of the poll to the advantage of one candidate.⁴¹

³³ *CJI*(II), pp.47, 617

³⁴ *CJI*(II), p.382, provides an account of a contested election in Dungarvan in Sep 1703 where polling started at 9am and the presiding seneschal wanted to adjourn at 4pm and resume the following day but the sheriff insisted he complete poll. Those entitled to vote were listed in a record book and those polling would have been recorded in the book; objection could be made to a man claiming to be able to vote; and the process finished when the presiding officer closed the books. Total voter turnout in this election was over 500. See also (II), p.612.

³⁵ *CJI*(II), p.614

³⁶ *CJI*(II), p.311, gives wording for an indenture where there had been a dispute for second seat at the 1703 election for Carlow borough: 'This indenture certified *Charles Howard* to have forty-nine votes of the freemen, inhabiting in that borough; and *Walter Weldon* forty-six votes of the like freemen, inhabitant: But the said *Walter Weldon* had sixty-five votes of the like freemen and others, not inhabiting in the said town; and the said *Charles* sixty-one votes of the like not inhabiting; and that each of them had an equal number of votes of the burgesses'.

³⁷ See *CJI*(II), pp.29, 47, 51-52.

³⁸ A brief comparison with Westminster using secondary sources such as *HoP*(1690)(I) shows broadly the same allegations and misbehaviour, though the scale and cost were greater: Tory and Whig rivalry animated and intensified disputes, direct government interference appears to have been stronger, there was a more developed legal framework regulating elections and greater recourse to the courts and the House of Lords in its judicial capacity—for example, the Aylesbury case in 1704 (Tomas Erskine May, *A Treatise upon the Law, Privileges, Proceedings and Usage of Parliament* (London, 1844), pp.40-42).

³⁹ *CJI*(II), p.47

⁴⁰ For example, *CJI*(II), pp.381-83, 763

⁴¹ For example, *CJI*(II), pp.47, 381-83, 612

After 1715 there is growing evidence that as well as candidates having agents and managers⁴² lawyers attended and intervened on their behalf at contested elections.⁴³ In the face of disputes about entitlement to vote, those responsible for making the return sometimes returned more than the required two Members and let the House adjudicate. This practice grew after 1715 and may have been a response to the intensity and sophistication of disputes at contested elections as well as a self-defence by presiding officers. In disputed and procedurally flawed elections, the Commons could, and did, summon officers and witnesses as well as the candidates. Dishonest, manipulative or incompetent officers were frequently at the sharp end of the House's authority and their actions corrected peremptorily with punishment.⁴⁴ There is almost no evidence of parties seeking recourse to the courts or the Irish Privy Council to circumvent the House's authority. When the House heard disputes at the bar⁴⁵ the timetable was shortened. In 1713, when the administration's supporters and its opponents were nearly even, the Whigs used this process to bolster their numbers but the cost was time in the chamber and a rise in the political temperature (as well as the absence of detailed reports to the House summarising the evidence). In that session seven of the 19 disputes arising from the general election were heard at the bar (more than in the previous 20 years) and of these six had been determined before prorogation.⁴⁶ In comparison, only one of the remaining 12 referred to the Committee of Elections and Privileges had had a decision at prorogation, even with the allocation of three days per week rather than the usual two for sittings of the committee.⁴⁷ From 1692 (other than during the 1713 session) most disputes were referred to the committee to investigate and report. The House could, and did on occasion reject, its conclusions.⁴⁸

⁴² For example, *CJI*(III), p.536

⁴³ For example, *CJI*(III), pp.47-48, 525; on the basis of the election reports in the *CJI*, there is no evidence of agents or lawyers acting during the poll before this date, although counsel frequently represented parties before the Committee of Privileges and Elections—for example, (II), p.382 (22 Nov 1703).

⁴⁴ For example, in 1707, when considering the election in Callan, the committee found that the petitioner had been properly elected but the writ had not been duly returned as the sheriff had gone to England. The House was able to correct the matter by calling in clerk of the crown to affix the return of writ (*CJI*(II), pp.518-19).

⁴⁵ See Appendix 6.23.

⁴⁶ *Cause célèbre* heard at the bar was the Dublin city election, which took up a substantial amount of time on 11, 12, 14 and 15 Dec 1713(*CJI*(II), pp.751-66).

⁴⁷ *CJI*(II), p.752

⁴⁸ For example, *CJI*(I), p.685, the House disagreed, on a division, with the committee's report on the Knocktopher by-election and ordered a fresh election.

Petitioning the House could be costly: the petition had to be prepared in the correct form; there were travel expenses to Dublin for the petitioner and witnesses; costs of accommodation while waiting to be heard; and assembling and presenting the case (often employing counsel). Because the committee's report has detail,⁴⁹ the 1727 disputed election in Swords has been used by the Porritts, to illustrate abuses at an election in a potwalloper borough.⁵⁰ Here it is examined in terms of parliamentary process. In brief, the poll took place on 8 November 1727 and the result was:

Bysse Molesworth	72
William Smith	58
Edward Bolton	58
Plunkett Plunkett	31.

The portreeve made a double return—one for Molesworth and Smith and the other for Molesworth and Bolton. Smith, Bolton and Plunkett petitioned and their petitions were referred to the committee.⁵¹ The allegations were similar: the petitioner had supporters rejected who should have been allowed to vote, while his opponents bought votes and had votes allowed from men who were disqualified. The House ordered the portreeve to produce the poll book, that the evidence be given 'in the most solemn manner' (i.e. on oath) and directed the committee to hear the case on 13 January.⁵² In the event the committee was not able to complete its work on that day as the chairman, Thomas Trotter, had to ask for extensions.⁵³ There were two procedural novelties before the committee reported on 15 February. First, Smith sought and was given 'liberty to give evidence touching bribery and corruption' on 12 January,⁵⁴ which may have been a warning shot at his opponents or to ensure evidence was taken on oath.⁵⁵ (The other petitioners made similar allegations but without seeking an order.) Second, when Trotter was due to report there was a move to put off the report to the following day. The division was tied and the Speaker gave his

⁴⁹ *CJ(III)*, pp.325-32

⁵⁰ Porritts, *Unreformed House(II)*, pp.351-53

⁵¹ *CJ(III)*, pp.473, 478

⁵² *CJ(III)*, pp.486, 488, 490; see also p.129 below.

⁵³ *CJ(III)*, pp.501, 505, 507

⁵⁴ *CJ(III)*, p.497

⁵⁵ When in the 1690s the House of Lords had refused to allow judges to attend the Commons to swear witnesses the Commons had summoned the justices of the peace for the city of Dublin to swear witnesses 'to be examined in the most solemn manner' (*CJ(III)*, p.421). Coghill says evidence on oath was only taken in cases where bribery was alleged—*Coghill Letters*, no.27 (To Edward Southwell, 8 Dec 1727).

casting vote against deferral.⁵⁶ The House agreed with the resolutions put forward by the committee—that Bolton was duly elected—after a division.⁵⁷ Molesworth and Bolton were returned.

The committee took evidence from 58 witnesses, including two clergymen—one each supporting Smith and Bolton—and two women.⁵⁸ Over a quarter of the witnesses were recalled—some four times—as the committee worked through individuals' entitlement to vote, which indicates that the witnesses had to attend the entire hearing. The account shows that the election was a managed contest and that the electorate participated fully in the contest and was aware of the political process. Although some of the forms that Mark Knights has identified in England⁵⁹ were not seen in the Swords election such as printed pamphlets (but were seen elsewhere in Ireland),⁶⁰ the contest shows a politicised electorate as in England.

The committee process resembled court proceedings: the report was infused with legal terminology such as deponent and exhibit; the parties agreed some matters among themselves; witnesses were led and cross-examined by counsel; and written evidence was introduced with leave. One witness said that he had been offered a bribe by Bolton's agent and, after discussing the offer with his father, while he was willing to take the money, refused to 'be book-sworn not to discover it ... because he did not know but he might again, before the House of Commons, be sworn whether he had or not [taken the money]'.⁶¹ Some voters were evidently aware that a contested election could land them before the Commons and they might have to give evidence on oath. At the end of oral evidence Molesworth, whose return no-one challenged, addressed the committee and withdrew.⁶² He was neither sworn nor cross-examined; it is not clear whether he spoke in favour of Smith, with whom he appeared to be working, or Bolton, his brother-in-law.⁶³

⁵⁶ *CJI*(III), p.525

⁵⁷ *CJI*(III), p.532; if the resolution had fallen the result would have been a fresh election.

⁵⁸ Alice MacLaughlin gave evidence that Bolton offered her money for her husband's vote; Bridget Stoakes gave evidence that she had allowed a man to live in part of her house to meet the minimum requirements of potwalloper franchise.

⁵⁹ Mark Knights, *Representation and Misrepresentation in Later Stuart Britain: Partisanship and Political Culture* (Oxford, 2005), p.3

⁶⁰ See D.W. Hayton, 'Two ballads on the Co. Westmeath By-election of 1723', *Eighteenth-Century Ireland*, vol. 4 (1989), pp.7-30, which is an even closer parallel with the election case studies Knights examines in Chester and Hertford.

⁶¹ *CJI*(III), p.528

⁶² In this case given his direct involvement in, and knowledge of, the case, it was not unusual that Molesworth should speak. The practice of MPs addressing a committee was common; for example, (*CJI*(II), p.383; (III), p.514). It is

What is missing from the committee's report is a rationale for its conclusions. Instead, as is the pattern with these reports, the conclusions (or resolutions) were appended at the end of the evidence.⁶⁴ The process behind this approach, and shared with Westminster, was that having taken the evidence, weighed it up and deliberated the decision implicitly conveyed the reasoning as the committee agreed with the arguments of the successful party. Members could set out their views when the report was put to the House but these are not recorded. There was doubt about how objective the Committee of Privileges and Elections was. In 1703 when an aggrieved candidate told the sheriff of Sligo he would raise the election in parliament, the sheriff replied that: 'the Committee of Elections was always a committee of assertions, and that he had Interest enough to continue sitting in the parliament any person he should return'.⁶⁵ External factors such as the influence of a patron could sway the outcome in committee or the Commons but it was not obvious in the Swords case. Although both sides alleged that their opponents used bribery and ineligible voters, Smith gave more emphasis to bribery, which chimed with the leave he had sought on 12 January. Bolton, on the other hand, put the stress on the ineligibility of Smith's voters.⁶⁶ The latter was probably easier to establish if the committee stuck to technicalities—did the voter boil a pot on a certain day and did his accommodation meet the criteria for being a discrete household—whereas bribery could, or be made to appear to, shade into legitimate transactions such as loans and hospitality. Finally, in contrast to many reports, there was no resolution criticising the sheriff or portreeve for bias or mishandling, which points to this being a case driven by the candidates themselves.

When the Committee of Elections and Privileges⁶⁷ was established at the beginning of the 1692 parliament, the quorum was eight and it was empowered to send for persons, papers and records,

likely that MPs who addressed a committee would participate again when the report was made to the House; they had local knowledge and links.

⁶³ *HIP* biography

⁶⁴ Not universal; the report on the disputed 1727 election in Lanesborough set out—in the form of resolutions interspersed in report—the steps that led to the committee's conclusions (*CJ*(III), pp.511-15).

⁶⁵ *CJ*(II), p.323

⁶⁶ Plunkett's case appears to have been a make-weight for Bolton bringing in some additional evidence against Smith.

⁶⁷ The Committee tended to be called the Committee of Elections and Privileges in the earlier part of the period covered by this thesis and the Committee of Privileges and Elections in the later part; the latter has been used when referring to activities of the Committee across the whole period and generally.

'as there shall be occasion'.⁶⁸ During the period to 1730 it had a listed membership of around 50 to 70;⁶⁹ with so many active Members attending such a committee the House would not be able to function. The Swords case shows the committee presiding over a lengthy legalistic process.⁷⁰ It also confirms that all Members had voices i.e. all Members could attend and speak⁷¹ and the committee could report its proceedings to the House from time to time with its opinion. As in the courts precedent carried considerable weight—for example, precedent guided who presided over or voted in previous elections.⁷² It appears the committee deliberated in private after counsel withdrew,⁷³ though it is unclear whether Members not appointed to the committee had to withdraw. The committee then formed its opinion on whether a person was or was not 'duly elected' and, if necessary, whether he was 'duly returned'.⁷⁴ The reports appear to have been written by, or perhaps on behalf of, the chairman.⁷⁵

It contrast to the four traditional grand committees,⁷⁶ this committee had a clear remit and did not fall into abeyance. When the committee was established at the start of the 1695 session its remit followed the Westminster formulation (see Appendix 6.12.1). The conclusion must be that the Irish entry used the English as a template. The English template was updated in 1696 with the addition at the end of the words: 'And that all Members returned upon double returns (i.e. returned for more than one constituency) do withdraw till their returns are determined'.⁷⁷ The change was not incorporated when the next committee was established for the 1698–99 session but was in 1703,⁷⁸ which is evidence that the templates used for *Vote* entries were checked and updated before the new parliament in 1703. From 1695 the committee's work divided into: (i) the investigation of, and reporting on, election disputes; and (ii) privilege cases. The volume of election cases peaked after

⁶⁸ *CJI*(II), p.13; there had been a Committee of Privileges in the 1661 Parliament, the ambit of which included elections ((I), p.388, 606, 685). The committee considered written evidence—for example, (II), pp.453-56, 518-19, 567, 612-14

⁶⁹ The 1692 committee had 94 members (*CJI*(1st edn)(II), pp.583-84); over the years it reduced to between 50 and 70 (*CJI*(1st edn)(IV), p.15, (V), pp.14, 644).

⁷⁰ For example, see *CJI*(II), p.381-83, 453-56, 612, 763.

⁷¹ Scobell, *Memorials*, p.49

⁷² For example, *CJI*(II), p.381-83, 518

⁷³ For example, *CJI*(II), p.383

⁷⁴ For example, *CJI*(II), p.519

⁷⁵ *CJI*(II), pp.453-55

⁷⁶ See p. 232 below.

⁷⁷ *CJI*(XI), p.567

⁷⁸ *CJI*(II), pp.242, 317

general elections—see the table in Appendix 6.12.2 showing the volume of contested election cases dealt with by the committee.

A feature of the period from 1692 was the steady erosion of the franchise exercised by Catholics. Simms states that in the 1695 general election, despite several petitions, in no proceedings was there a finding that challenged the voting rights of Catholics; in fact in a rare case that went to the Irish Privy Council it was held that freemen could vote without taking the oath of supremacy (that is denying the Pope's deposing power).⁷⁹ With its predominant position in electoral matters—both in terms of the facility to legislate and through its determination of electoral petitions—the Commons provides a picture of Protestant views and their effect on elections. There were regular allegations by petitioners that their opponents won with the help of votes from Catholics: this is viewed negatively but nearly always as part of a wider picture of reprehensible behaviour.⁸⁰ The report on a disputed election in Irishtown (St. Canice) in 1709 set out that the petitioner had 36 votes from Catholics, which, if accepted, would have given him a clear victory over the sitting Member, who had refused votes from Catholics, though one witness suggested that was because he could not get any. There was confusion as to whether Catholics could vote—one witness was of the view 'that papists have been excluded from voting since king James' time' and the portreeve refused to accept their votes but his reasons were not recorded. In other reports on electoral disputes there were surprisingly few references to the oaths of allegiance and abjuration that voters were required to take by the popery act of 1704.⁸¹ It may have been that the oaths had been administered as a matter of course without comment and Catholics did not take them. Alternatively it may have been the oaths were not used. There are arguments in the reports about taking oaths but these are on whether someone met a non-religious requirement of the franchise—such as whether he was a freeman of a borough.⁸² Moreover, when the committee reported on Irishtown it informed the House that it was divided on whether Catholics had votes and it made no reference to the requirements of the 1704 Act. It reported in favour of the sitting Member, by implication discounting

⁷⁹ J.G. Simms, 'Irish Catholics and the Parliamentary Franchise 1692–1728', *Irish Historical Studies*, vol. 12, no. 45 (Mar 1960), pp.29–30; points out that, after an attempt to assassinate William III, the Commons tried to emulate an English statute preventing Catholics voting but it failed in the Lords; instead, the Commons had to content itself with expressing its sentiments in a resolution: 'That the excluding of papists from having votes for electing any MPs to serve in parliament in this kingdom is necessary to be made into a law' (*CJ*(II), p.230).

⁸⁰ For example, *CJ*(II), pp.57, 382, 753, 762

⁸¹ 2 Anne c.6, section XXIV

⁸² In a 1715 petition on the election in Lanesborough referred to those listed as voters in the corporation books as having taken oaths of allegiance and supremacy (*CJ*(III), p.18).

the Catholic voters (as well as a number of Protestants on other grounds). The House, on a division (79 to 52) agreed with the committee but it offered no view on Catholics' entitlement to vote.⁸³ The case raised bitter local rivalries that were not sectarian⁸⁴ which affected its outcome, but given the number of Catholic votes discounted popular sectarian sentiment was restricting the legal entitlement to vote.

After 1713 allegations of Catholics voting are less frequent—one reason may have been that the remaining routes to the franchise (being a freeholder or a freeman) were blocked off or the 1704 legislation, as repeated and strengthened in 1716, was being applied.⁸⁵ By the time of the Swords by-election in 1727, just before legislation was enacted which unambiguously disenfranchised Catholics,⁸⁶ the prevailing assumption was they could not vote. Instead, concerns focused on the authenticity of voters' Protestantism. One test of eligibility was whether or not a man entitled to vote—in all other respects—had a Catholic spouse or relatives. In the Westmeath by-election in 1723 and in Swords in 1727 this was advanced as grounds for disqualification.⁸⁷ And it played a large part in the deliberations of the committee on the county Clare election of 1727.⁸⁸ In that case—reported to the House on 16 February 1727/8—the two primary issues in contention were the property qualification of voters and the confessional state of their spouses (as well as the behaviour of the sheriff). The petitioner's counsel did not cite 1704 Act with its requirements for oaths but cited the 1697 act to prevent Protestants intermarrying with papists, which came into operation on 1 January 1697.⁸⁹ The Journal did not record which parts he read but the statute

⁸³ *CJI*(II), pp.612-14; Simms points out that Addison referred to the case and said it was treated as a party measure and as a victory for the Whigs (Simms, 'Irish Catholics', p.34).

⁸⁴ The petitioner, Cuffe, had been MP for co. Kilkenny in the 1690s; he had a long-running dispute with Col Gorges who was one of tellers for those voting in support of the sitting MP (*HIP* biography); and according to the committee's report one of his witnesses said that the inhabitants had invited Cuffe 'to be elected'.

⁸⁵ 2 George I c.19, section VII provided that no burgess, freeman or inhabitant 'being a papist, or professing the popish religion, shall be admitted to give his vote ... unless such person shall have taken the oaths of allegiance and abjuration at least six calendar months before [the] election, and shall also take the said oaths at the day of election, if required so to do by the sheriff, one of the candidates, or any person having a right to vote'. The act also attempted to end conveyances designed to create a franchise and candidates proffering 'money, meat, drink, entertainment or ... present, gift, reward' (section VIII). The former provision appears to have been more effective than latter.

⁸⁶ See p.90 below.

⁸⁷ *CJI*(III), pp.342, 537

Hayton in 'Two ballads' examines the co. Westmeath by-election, where the main ammunition of attack was allegations of bribery supplemented with allegations of Catholic supporters. In contrast to the Swords dispute, there was more evidence of a Whig/Tory split with Tory allegations that their opponents were not gentlemen and Whig allegations that Tories were crypto-Catholics. As in the Swords case, the dispute was presented and argued out as in a court of law, though with behind-the-scenes busy-bodging by Speaker Conolly's wife.

⁸⁸ *CJI*(III), pp.533-42

⁸⁹ *CJI*(III), p.536; reference to 'Cap.28' of relevant statute in *CJI* appears to be an error for 'Cap.3'.

provided that 'protestant persons ... influenced by ... popish wives, are reconciled to popery, and become papists'. On this basis the legislation provided that without proof of the woman's conversion the husband 'be in law deemed and esteemed ... a papist or popish recusant'. The 1697 Act then listed the civil disabilities that applied to such a man which included sitting 'in either House of Parliament, and [being] rendered incapable of and having, bearing or exercising, any civil or military office or employment whatsoever, unless such person so marrying shall, within one year after such marriage, procure such wife to be converted to the Protestant religion'.⁹⁰ This argument found favour with the committee which passed a resolution that a Protestant, married to a Popish wife since 1 January 1697, who 'has not within one year after such marriage become a Protestant, has not a right to vote in any election for Members to serve in parliament'. On the basis of this opinion counsel for both sides agreed that five voters had to be disqualified.⁹¹ They brought evidence about the religious outlook and activities of the wives of several Westmeath voters. When the committee reported the resolution, the House agreed.⁹² The implication of this case is that the accepted norm was that Catholics, and those deemed to be Catholics, could not vote. The case highlights that since the 1690s the processes and views of the committee handling contested elections demonstrate that an intrusive legalism and prevalent sectarianism were in the vanguard of narrowing the franchise.

The 1727 session saw a move on two fronts to reform other aspects of the handling of parliamentary elections and the disputes about elections. Thomas Trotter, the chairman of the Committee of Privileges and Elections,⁹³ played a significant part in both—possibly as originator but certainly as the 'undertaker' or manager. The stimulus may have been the general election following the death of George I⁹⁴ and the need to have processes and rules in place to handle an expectedly large number of petitions. On the day that it appointed the Committee of Privileges and Elections at the start of the 1727 parliament the Commons agreed for the first time sessional

⁹⁰ 9 William III c.3, section II

⁹¹ *CJ*(III), p.537

⁹² *CJ*(III), p.541

⁹³ Trotter was firmly in 'court' party—*Coghill Letters*, p.xv, no.27 (To Southwell, 8 Dec 1727).

⁹⁴ On 21 Sep 1727, when elections were underway, Coghill wrote to Southwell that he had been told about a British bill 'to prevent bribery and corruptions in elections, we shall be undone unless we can get such an act here ... pray put me in the way to get a copy of this bill' (*Coghill Letters*, no.26. In Dec when it started examining disputed elections Coghill commenting on the House's approach to take evidence on bribery on oath: 'the House seems resolved to find out this practice and punish if possible, and it is hoped this method may be better security against this practice than any law that we that we may hope to get'—*Coghill Letters*, no.27 (To Southwell, 8 Dec 1727).

resolutions on elections against peers voting and interfering in elections, frivolous or vexatious petitioners, bribery, tampering with witnesses to the House and submitting false evidence.⁹⁵ They were not, however, the distillation of Irish experience but lifted directly from the 'normal rules' passed at Westminster each session since 1714.⁹⁶ The intention seems to have been to make these a set of 'usual' orders repeated at the start of each session and that is what happened in 1729.⁹⁷ The exercise appeared to lack substance because the next re-statement was in October 1739⁹⁸ and, significantly, neither the 1729 nor 1739 resolutions included the February 1728/9 resolution disenfranchising voters with Catholic wives. That resolution was no dead letter: Johnston-Liik comments that 'proving and disproving [this requirement] was to be a considerable problem in subsequent rules until 1793'.⁹⁹ The Commons did not consider modifying the Westminster rules. The reason may have been that these resolutions were largely superficial and that the substance of the changes was made by another route.

The second limb of the changes in the 1727–28 session was legislative, and here the Commons exercised much more discrimination. Trotter brought in heads for the further regulating of elections for MPs in December 1727.¹⁰⁰ The provision which has attracted attention was the removal of the franchise from Catholics.¹⁰¹ The purpose of the statute was, however, wider, tackling 'the evil practices and irregular proceedings of sheriffs, mayors, sovereigns and other officers in the execution of writs and precepts for electing Members to serve in parliament'. It (i) set out the bureaucratic process and timetable to be followed and attempted to ensure officers' compliance by threat of financial penalties and (ii) sought to end disputes about entitlement to vote by clarifying the date by which a voter had to have certain interests in property and a freeman carrying on a trade. While not incorporating each of the items in the sessional resolutions, it had the effect of superseding them. The 'penal' provision was not, however, to prevent disputes but 'for the better preventing papists from voting in elections' and was a blanket prohibition on Catholics voting

⁹⁵ *CJI*(III), p.465; set out in Appendix 6.13.2 (1727 sessional resolutions)

⁹⁶ *CJGB*(XVIII), p.5

⁹⁷ *CJI*(III), p.582

⁹⁸ *CJI*(IV), p.297

⁹⁹ *HIP*, biography for George Purdon (declared not duly elected as a result of the contest)

¹⁰⁰ 1 George II c.9

¹⁰¹ See, for example, *HIP* biography for Trotter, and Connolly, *Religion*, pp.290-91.

without allowing any proviso for those taking any oath. The law was probably catching up with the actuality.

The 1728 Act, and an ineffectual precursor in 1716¹⁰²—also taken through by the chairman of the Committee of Privileges and Elections at that time, St. John Brodrick—drew on several English acts.¹⁰³ In contrast to the sessional resolutions, on both occasions the Irish legislators selected and amended parts of the English legislation as well as including provisions not found in English acts. For instance, the 1716 ban on bribery and some of the 1728 Act's requirements for notice of a poll follow with modifications earlier English legislation. Most of the detailed timetabling of the election processes found in the English statutes were not replicated in the Irish—possibly because they were unnecessary or offered too many openings for challenges. The process was one of pragmatic adaptation.

3.1.2 Induction of Members

In 1665 the House had required the clerk of the crown to supply a certificate of the return to the clerk of the House, 'who is to acquaint the Speaker ... so notice may be given to the House, and two or three Members appointed to bring in such new elected Members'.¹⁰⁴ There is no obvious reason in the Journals for this change but it brought the Dublin House in line with Westminster. The certificate was read and the Member 'being sent for, was accompanied into the House with several Members, who took his place'.¹⁰⁵ On the Westminster requirement for Members to take an oath Dublin was out of step until 1692. With one exception,¹⁰⁶ the Journals for the first half of the seventeenth century record no requirement on a Member to take an oath before taking his seat and the contrast with England is striking where Members had been required to take the oath of supremacy since the 1560s, an oath of allegiance and abjuration from 1610 and a declaration against transubstantiation from 1678.¹⁰⁷ (These oaths, if applied before 1660, would have

¹⁰² 1 George II c.9; see also p.89ff above.

¹⁰³ Principally English legislation from the 1690s: 7&8 William III c.7, c.4 and c.25; Bergin, 'Irish Legislative Procedure', pp.235-38 notes that English legislation was pragmatically amended to meet the requirements of those drafting Irish legislation.

¹⁰⁴ *CJI(I)*, p.671

¹⁰⁵ *CJI(I)*, p.748

¹⁰⁶ The exception occurred at the height of the civil war in 1642 when the Commons introduced a requirement to take an oath of supremacy, which became part of a mechanism to expel MPs in rebellion. The provision may not have been legal or available as the records were missing and was not enforced when the Irish Parliament met in 1661.

¹⁰⁷ Porrits, *Unreformed House(I)*, pp.127-38, *HoP(1690)(I)*, pp.317, 531

excluded Catholic MPs from the Irish Commons.) The 1661 House, exclusively Protestant, appointed a committee to consider of the 'manner and way, how the oaths of supremacy and allegiance may be taken, by all that are now, or hereafter shall be, Members of this House';¹⁰⁸ the committee does not appear to have reported. But Members attended St. Patrick's Cathedral in Dublin (as was practice at Westminster, where Members attended St. Margaret's)¹⁰⁹ where they received the sacrament from the Protestant archbishop of Armagh,¹¹⁰ which acted as a proxy for a declaration of political and religious loyalty, though not a requirement of membership.

In 1692 there was no checking of precedents or setting up of committees. Immediately the Speaker was seated a motion was made that the English "Act [of 1691] for abrogating the oath of supremacy in Ireland, and appointing other oaths" [be read and] the House immediately proceeded to the swearing of their Members'.¹¹¹ There is no evidence that the Commons, beyond the resolution, stood on its constitutional dignity or made any adaptations. The 1691 Act applied beyond Members to require that all office holders were Protestant and accepted the new regime. The inclusion of the parliamentary provisions in the 1691 Act may have been coloured by the recent experience of the 1689 parliament and uncertainty about the composition of the electorate; the Act itself explained: 'great disquiet and many dangerous attempts have been made to deprive their majesties and their royal predecessors of the said realm of Ireland by the liberty which the popish recusants there have had and taken to sit and vote in parliament'. Each Member was required to pledge allegiance to William and Mary and to deny the power of the papacy to depose sovereigns. In addition, parliamentarians had to deny transubstantiation 'without any evasion equivocation or mental reservation whatsoever and without any dispensation already granted ... for this purpose by the pope or any other authority'.¹¹² The 1691 Act prescribed how the oath and declarations were to be taken, apparently on the assumption that the Irish Commons would operate and had the same layout as Westminster. The bulk of Members were sworn in at the start of a parliament. Members waited outside the door to the chamber, were called in and sworn in

¹⁰⁸ *CJI(I)*, p.387

¹⁰⁹ Porritts, *Unreformed House(I)*, p.130; 13 May 1661 all MPs were ordered to attend St. Margaret's, Westminster and to take communion (*CJE(VIII)*, p.247).

¹¹⁰ *CJI(I)*, p.400

¹¹¹ *CJI(II)*, p.9

¹¹² 3 William III and Mary II (England) c.2

front of the House at the Table in the middle of the Chamber.¹¹³ The clerk of the House was required to make a record in rolls prepared for the purpose and Members had to pay him a shilling for making the record.¹¹⁴ These records were not published in the *Votes* (probably because of space) nor recorded in the Journals (following Westminster practice). This episode was one of the few instances where the government directly imposed Westminster practice on the Dublin House of Commons. The Irish House and its procedures, already modelled on Westminster, had little difficulty adapting to the practice.

Candidates could stand for election in more than one constituency. From 1695 the Commons imposed a time limit within which the elected for more than one constituency had to decide the seat they wanted to sit for.¹¹⁵ The Journals record the choices made because they precipitated by-elections in the discarded seats. Table 8 below gives the numbers that were doubly (or more) elected at each general election between 1692 and 1727.¹¹⁶ (Excluding 1692, just under half of the double elections¹¹⁷ involved seats where there was a petition which indicates the advantage of having a seat in reserve as insurance.) Table 8 shows a pattern in the choices made: county seats were clearly preferred over all others but beyond them there is a pecking order with county boroughs, cities and then seats with an electorate beyond a closed corporation or handful of electors. County seats carried prestige and showed status, which appears to have carried down the hierarchy of seats. The other factor which had some bearing, particularly in some closed seats, was local connection such as landownership in the county.

¹¹³ *CJ(II)*, p.391

¹¹⁴ 3 William III and Mary II (England) c.2, section IV

¹¹⁵ The Westminster Commons had imposed time limits on both election petitions and for MPs doubly returned to make their choice of seat since 1620s (*CJE(I)*, p.673).

¹¹⁶ In 1692 and 1703 several MPs were returned for three constituencies and in 1692 Robert Smith was returned for four. The *HIP* biography states that little is known about Smith other than that he was a nephew of Ormond, which may account for the constituencies he was returned for. The 1703 general election marked the last multiple returns—probably as a result of firmer control established by patrons over corporation, manor and ecclesiastical seats meaning nominated candidates were bound to be returned and so there was no need to have further seats in reserve. The term 'double election' is used here rather than 'double return', which is applied to cases where a returning officer returned more than there were vacancies in a seat.

¹¹⁷ See fn 116 above for the distinction between 'double election' and 'double return'.

General election	Double elections	Triple elections	Quadruple elections	County chosen	Seat with larger electorate
1692	11	3	1	4 (out of 4)	4 (out of 4)
1695	6 ¹¹⁸			1 (out of 1)	3 (out of 3)
1703	7	2		3 (out of 3)	2 (out of 2)
1713	9			4 (out of 4)	3 (out of 3)
1715	10			4 (out of 4)	5 (out of 5)
1727	15			3 (out of 3)	4 (out of 5)

Table 8 Double elections after general elections

3.1.3 Attendance

Three methods have been used to measure Members' attendance. First, the numbers taking part in divisions. Second, correspondence and diaries commenting on attendance. Third, entries in the Journals indicating that the House was pressing Members to attend. The figures for divisions taken from the Journals and other sources¹¹⁹ are set out in Appendix 6.19 and have been plotted in Table 9 and Table 10 below. Caution has to be exercised in using the figures as they are not evenly spread and divisions were occasioned by the failure to reach a consensus—particularly during periods of political conflict—and as a result they may over-represent average attendance rates. The most divisions in a month and the largest voting figures (258, plus two tellers on 25 November 1713¹²⁰ in the contested election for the Speaker) were recorded in the 1713 session. That said, Table 9 points to increasing attendance from the 1690s (with some falling back in 1698/99) to 1713, then a falling-off at the start of the Hanoverian regime, which was slowly reversed until 1725. This trend is clearer if the numbers are used to produce an average voting over a parliament (there are insufficient to do this separately for most sessions) (see Table 11).

¹¹⁸ In addition, there were double elections at two by-elections—*CJI(II)*, p.252.

¹¹⁹ See Appendix 6.20.

¹²⁰ *CJI(II)*, p.743

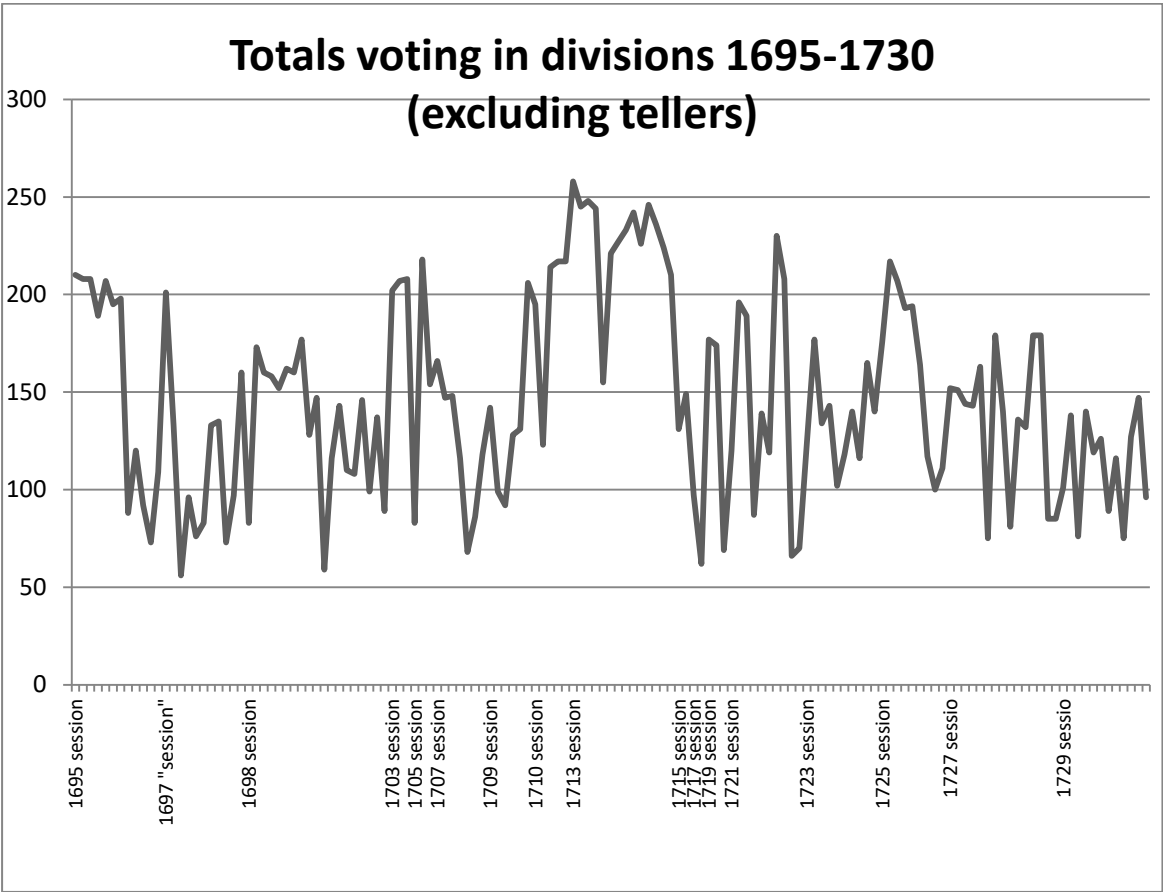


Table 9 Totals voting in divisions from 1695 to 1730

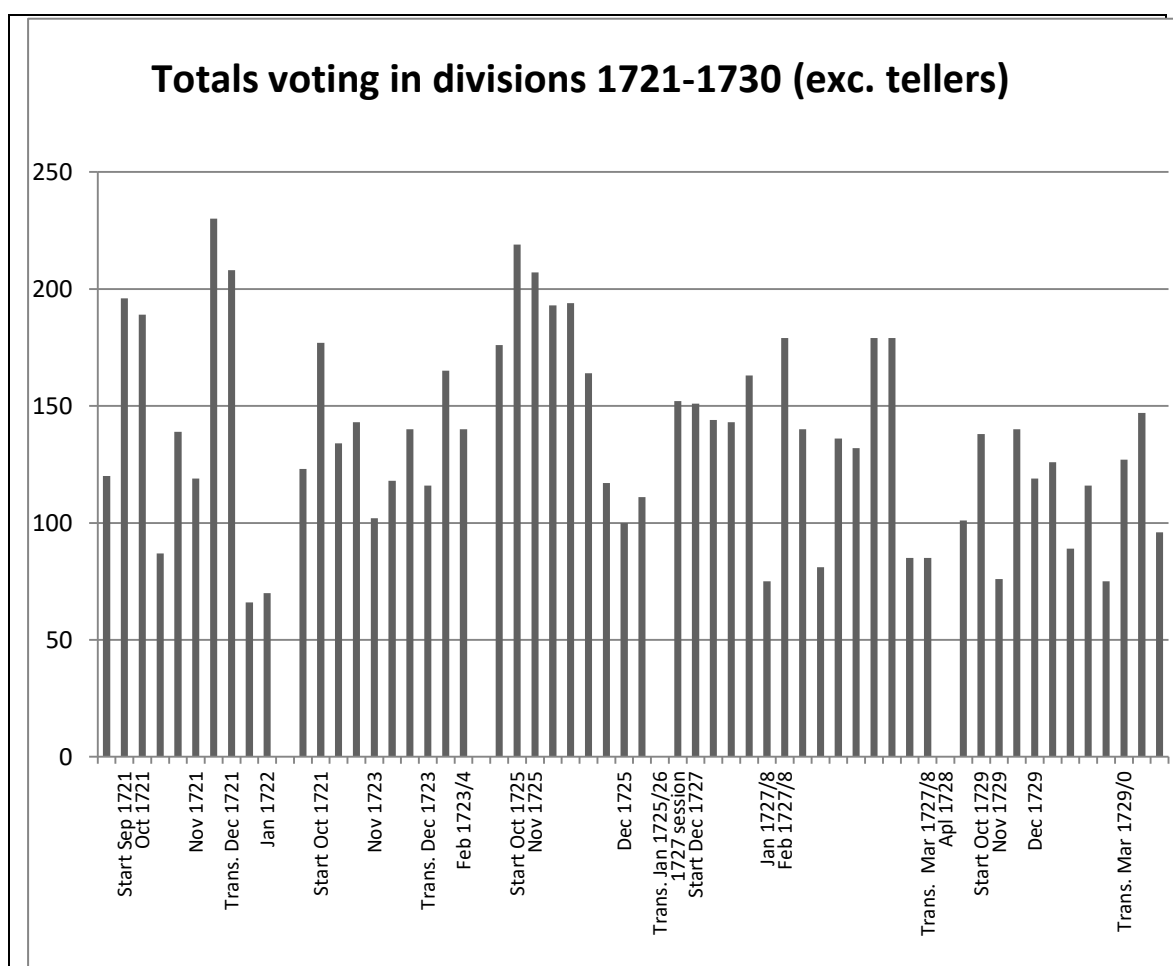


Table 10 Totals voting in divisions by session in the 1720s

Parliament	Average number voting in a division
1695	134
1703	154
1713	230
1715	146
1727 (to 1730)	125
Average 1695 to 1730	148

Table 11 Average number of Members voting in a parliament

The data for the 1720s, when sessions followed a much more regular pattern than during the previous 30 years, are firmer for analysis. Table 10 indicates, however, that there was no sessional pattern of attendance, other than each session had its own dynamic: for example, the 1725 session fuelled by the controversy over Wood's halfpence recorded the highest figures in the decade. Nor are there enough statistics for the 1720s to see clear patterns within each session beyond an indication that attendance may have built during the pre-transmission half of the session and that attendance after the transmission recess fell away, sometimes significantly.

Sir John Perceval's diaries show that what held his attention and pushed up attendance was well argued debate and high political drama. He also had to attend when he was responsible for business such as moving an address,¹²¹ and, though not always there at the start of business, he appears to have sat through debates which bored him.¹²² Correspondents reporting parliamentary proceedings to the government in London highlighted the same items—for example, Richard Warburton providing accounts in 1695 on the attempt to impeach Porter, which had two groups of partisans for and against Porter and entailed late sittings and several divisions.¹²³ In 1703 when the House was debating supply and William Robinson was under attack there 'was not above 56 Members at most absent'.¹²⁴ Once Members had been in Dublin a few weeks, however, it became more difficult to keep them 'in town'. There are regular references to Members wanting to finish and get back to their estates.¹²⁵

¹²¹ *Perceval Diaries*, p. 126

¹²² For example, debate on whether the doorkeeper was entitled to 6s/8d from each MP—*Perceval Diaries*, p. 127.

¹²³ *BL, Add. 28,879 ff.* 190-91 (10 Oct 1695)

¹²⁴ *BL, Add. 28,891, f.* 135 (Dun to John Ellis, 15 Oct 1703)

¹²⁵ For example, *BL, Add. 28,893 f.* 78 (Chief Secretary Southwell to John Ellis, 14 Mar 1704/5)

As was the case at Westminster, there is evidence that the day in the House got off to a slow start with Members drifting in during the morning. Lieutenant-General William Steuart, an administration supporter, explained in a letter dated 9 November 1703 to John Ellis that after he had finished on a committee:

I went into the House which I found to be barely a House and scarcely one of ... [Ormond's] friends in it; as soon as the Speaker saw me he made me a sign to come to him he being in the Chair; he told me by way of a whisper, that they had just then (being hardly 11 o'clock) passed a vote that the representation sent to the queen should be printed ... I told him I was very sorry that an affair of [this] consequence should have been moved so early in so thin a House adding that I had reason to think it would be looked upon as done to surprise the House into a vote, which when well debated and duly considered would never have been in a full House.¹²⁶

Steuart went to the Castle at once and the administration managed later in the day to reverse the decision. The episode shows that the administration was at risk of ambush in a thin House, particularly with the connivance of a dissembling Speaker covering his back and feigning to be powerless to head-off a tactic of the administration's critics,¹²⁷ and that the expectation was that important and controversial matters would get a thorough airing in debate. Steuart also admonished the administration's friends who should have been at their station for not being more diligent in their attendance.¹²⁸ (There was no attempt to offset this risk by taking certain business at specified times.)¹²⁹

As at Westminster, the Commons used the 'call-over' (a roll call) to drum up attendance. The procedure appears to have been more effective in the seventeenth and early eighteenth centuries than later, a pattern also noted by P.D.G. Thomas.¹³⁰ In the 1661 parliament the House was called

¹²⁶ *BL, Add. 28,891, f.191*

¹²⁷ Southwell also gave an account indicating that there were 45 in the House and the original decision had passed unanimously, which shows that the administration was not present and that no arguments on its behalf were presented. Ormond called leading supporters together and Southwell was sent to the Speaker: 'But he said that it being an order of the House he did not think it proper to intermeddle therein. Whereupon I moved it to the House ... I told the House that this paper having been transmitted for England it was not a decent respect to Her Majesty to have it appear in print till some answer were returned... There was a pretty deal of argument on both sides, but in conclusion the House came to a resolution of the deferring the printing of it till the second day after our next meeting' (*SP*, 63–363 f.128(stamped 18) (13 Nov 1703)).

¹²⁸ The Administration was aware of the risks of a thin House since the 1690s. On 6 Nov 1697 Lord Chancellor Methuen wrote to Secretary of State Vernon that 'for being apprehensive of great designs, we were able to bring up every country gentleman in Ireland so as to have a fuller house than at any time this session. So that I am confident we can prevent any attempt whatsoever and end the session quickly and quietly and part very great friends' (*SP*, 63–359 f.176(stamped 375)).

¹²⁹ *See Orders, Standing Orders, and Resolutions of the Honourable House of Commons, relating to the Forms of Proceeding, Privileges, etc, etc Collected out of the Journals and Undigested under there are several Heads* (London, 1747).

¹³⁰ Thomas, *Commons*, pp.96-110, who suggests that the government used calls at Westminster and then frequently postponed them, to keep MPs in London.

over frequently and Members not in attendance and who had not been given leave to absent themselves were fined.¹³¹ After 1692 it was first used in September 1695 but when the 'Order for calling the House over this day being the read, and the Question put, that the House be now called over, it passed in the negative' and the call over was delayed.¹³² The House was eventually called over and defaulters were excused when several Members currently in England on business were given a month to appear.¹³³ Later attempts to call over the House were frequently postponed, excuses of illness were accepted and absentees were given several opportunities to appear.¹³⁴ The process, although often postponed, had some teeth. Members were taken into custody in the 1698/9 session and had to pay fines for non-attendance before being released.¹³⁵ This aggressive approach continued into the next parliament. On 2 November 1703, when the House was called over, Sir Michael Cole, MP for Enniskillen, was told that, if he did not turn up in a fortnight, the Speaker would issue his writ for a by-election; two Members were told to attend within a month; and three others were ordered to be taken into custody by the serjeant-at-arms.¹³⁶ The House's decision in 1703/4¹³⁷ that it would no longer declare seats vacant for non-attendance, however, weakened the penalties for unauthorised absence. What emerged was a system with three elements. First, from 1715 circular letters from the Speaker urging Members to attend. On re-assembling after a Christmas or transmission recess the House ordered a call over in two weeks and the Speaker was ordered to 'write circular letters to the sheriffs of the several counties, to acquaint the Members in their respective counties'.¹³⁸ Second, after 1715 the calls of the House were more frequent, especially in sessions when there was a major issue in contention—such as the national bank in 1721¹³⁹—or political tensions were running high—such as Wood's halfpence in 1723 and 1725. The sanction threatened for non-compliance was to be taken into custody.¹⁴⁰

¹³¹ *CJI(I)*, pp.406, 408-09, 412, 511-12, 543, 699; see also Scobell, *Memorials*, pp.84-86.

¹³² *CJI(II)*, p.65

¹³³ *CJI(II)*, p.73

¹³⁴ *CJI(II)*, p.181, 244

¹³⁵ *CJI(II)*, p.250ff, 289

¹³⁶ *CJI(II)*, p.355

¹³⁷ See p.130 below.

¹³⁸ *CJI(III)*, p.60 Similar instances: *CJI(III)*, pp.255, 317, 365, 444

¹³⁹ A call may have been especially necessary when a substantial issue arose during a quiet session such as 1721/22: Philip Perceval to Lord Perceval 'Our parliament either in upper or lower House never had less to do; and were it not for the supply, and the business of the Bank, the Commons would not sit once a week' (*BL, Add.* 47,029 f.71 (5 Oct 1721)).

¹⁴⁰ *CJI(III)*, pp.255, 408

The regularity with which Members sought leave of absence (to avoid sanction)¹⁴¹ and Journal entries showing that defaulters' circumstances were reviewed is evidence that the process had substance. In December 1723 12 defaulting Members were ordered to be taken into custody. On this occasion it appears that a faction saw advantage in keeping attendance up by setting an example to their own followers.¹⁴² Third, there was what later would be called whipping and caucusing and is examined below (see page 191).

These procedures and tactics were used together by both the administration and its opponents. The rising political temperature occasioned by Wood's halfpence illustrates how the levers combined with other tactics could be used to manipulate attendance at the 1723–24 session (as well as showing how this session departed from the norm). Lord Lieutenant Grafton reported that the 'copper coins' had occasioned circular letters and

the early order for the call of the House at the beginning of the session brought up Members to town from the most distant parts ... their passions having been so awakened.... [they] protract and disquiet the session by vexatious observations... They are still carrying on the same part by starting every day new business and moving for bills (which they would not otherwise have regarded or at least have so long neglected) on purpose to keep the Houses sitting in expectation of His Majesty's answers to their address concerning Mr Wood's grant, so that the recess which might otherwise have been before this time is now removed to a farther distance.

[Our opponents are] vigilant and active in gaining new friends and in keeping all those in town who are attracted to them on this subject with insinuations that the welfare of their country is at stake and that they hope they shall have their concurrence (meaning the country gentlemen).¹⁴³

In November 1723 at Grafton's instigation the House adjourned to 12 December but he noted:

The recess of the parliament after having prepared ... heads of bills ... has usually been understood as the conclusion of all the difficulties of the session, and the country gentlemen have generally taken advantage of it to excuse themselves from further attendance when very little duty remained besides the formal part of passing those bills ..., which might be transacted by a few, but ... the present recess is only to be considered as a cessation of business for a time, for a few days ago it was ordered ... that the House be called over the first Monday after their meeting again ... accordingly, the motion for which

¹⁴¹ See for example, requests following orders to call in the House in *CJI(III)*, pp.262, 290.

¹⁴² *CJI(III)*, pp.369-73 (Dec 1723) This episode stands out for the application of sanctions and the numbers taken into custody and reinforces Burns' point that measures were taken to keep up attendance as the political temperature rose against Wood's halfpence (R.E. Burns, *Irish Parliamentary Politics in the Eighteenth Century*, 2 vols. (Washington, 1989–90), (I), p.146). On the basis of the *HIP* biographies, most sanctioned were Tories (Richard Cox, William Flower, St. Leger Gilbert, Brent Spencer), Presbyterian leaning (Archibald Edmundstone) or obscure independents (Thomas Christmas, Henry Edgeworth, John King, John Mason, Robert Ross). The procedure was used again in 1725–26 when three MPs were ordered into custody—(III), p.409 and Hayton, *Ruling Ireland*, pp.98-105. Two were Tories or had Tory connections (Acheson Moore, Arthur St. Leger).

¹⁴³ *SP*, 63–382(stamped 1 (2 Nov 1723))

orders was pompously introduced with an alarm of some affairs of the greatest consequence still depending.¹⁴⁴

Members in Dublin but not attending the House could be rounded up by the serjeant-at-arms. On 26 October 1695 the House ordered him 'to require all the Members ... without doors to attend the service of this House immediately'.¹⁴⁵ The serjeant-at-arms had to scour 'several coffee-houses and places adjacent' to Chichester House to ensure Members attended.¹⁴⁶ In 1710 Perceval recounted how activities in coffee-houses could spill into the House:

A person came the other day into the coffee house very drunk, and nothing would serve his turn but he would make everybody there drink Sacheverell's health; he swore that was the way in England and he was resolved for the future that should be the way here too. And accordingly he called for a bottle of brandy and made several drink it and amongst the rest Andrew Young [Member], and this was talked of in the coffee [house] by the Parliament House; and ... Serjeant Caulfield getting it ... came into the House and made a very dismal complaint of breach of privilege against ... Mr Young, who was present, and was called, but declared that for this part he had no force put upon him, yet he liked the health very well, only that he wished [there] had been better liquor to drink it in, and so the matter ended with Caulfield being soundly laughed at.¹⁴⁷

The anecdote also shows how an attack could be deflected with humour.

By far the most frequent Journal entries concerning attendance are those granting Members leave of absence. Typically a Member was allowed two to four weeks 'to go into the country ... about urgent business',¹⁴⁸ 'to go into the country for ... for recovery of his health'¹⁴⁹ or 'have leave ... to go into the country to his command'.¹⁵⁰ Leave was also frequently given for Members to go to England, usually for at least a month.¹⁵¹ Leave could also be extended.¹⁵² The point of the process was that a Member given leave would not face penalty if the House was called over during his absence and it protected his privilege while away. For the process to have effect Members had to pay the clerk for the order¹⁵³ because it had to be recorded in the Journal 'otherwise the House will

¹⁴⁴ *SP*, 63–382(stamped 15 (To lord Carteret, 15 Nov 1723); Carteret was Secretary of State for the Southern Department 1721–24 and Lord Lieutenant 1724–30.

¹⁴⁵ *CJI*(II), p.110

¹⁴⁶ *CJI*(II), p.282

¹⁴⁷ *BL*, *Add.* 47,026, f.26 (26 Aug 1710)

¹⁴⁸ *CJI*(II), p.22

¹⁴⁹ *CJI*(II), p.17

¹⁵⁰ *CJI*(II), p.21

¹⁵¹ For example, *CJI*(II), p.18

¹⁵² *CJI*(II), p.112

¹⁵³ *CJI*(II), p.22

look on such Members to have withdrawn ... from the service of this House without the leave'.¹⁵⁴

When the House stopped allowing Members to resign¹⁵⁵ the process developed to allow longer leaves of absence. In May 1707 Colonel William Southwell was given leave of absence for six months 'to attend her Majesty's service'.¹⁵⁶ But as Table 12 indicates requests for leave of absence fell off after 1707. They had a revival in use from 1719 reaching an average of more than three requests every four sitting days in 1725–26; this is likely to be related to the stiffening of the attendance regime noted above. There is a loose correlation between requests for leave and the point at which the House started to consider returned bills, especially in the earlier sessions; in 1725 requests started earlier and may come from a realisation that with the withdrawal of Wood's patent the session would not be as momentous as expected.

Session	Requests for leave of absence divided by sitting days ¹⁵⁷
1692	0.7
1695–97	1.5
1698–99	0.4
1703–04	0.9
1705	0.6
1707	0.6
1709	0.3
1710	0.1
1711	0.1
1713	0.0
1715–16	0.2
1717	0.0
1719	0.3
1721–22	0.2
1723–24	0.4
1725–26	0.8
1727–28	0.1
1729–30	0.3

Table 12 Requests for leave of absence

3.1.4 Expulsion

When parliament reconvened on 21 June 1642, after a five month adjournment civil war had started. On the following day the Commons expelled 41 Members, who were 'either in open

¹⁵⁴ *CJ(II)*, p.68

¹⁵⁵ See p.130 below.

¹⁵⁶ *CJ(II)*, p.465

¹⁵⁷ Sitting days derived from Appendix 6.1.

rebellion, or stand indicted of high treason' and ordered the Speaker to issue his warrants for by-elections.¹⁵⁸ By the time that the 1692 parliament met the terms and force of the oaths had, as noted, effectively excluded those who were not prepared to accept the new order. Mass, summary expulsions no longer occurred but individuals who transgressed were expelled. The procedure had developed from 1642 and allowed the Member to respond to the allegations. The first instance was on 11 October 1692 when George Crofts, having been given notice, was from his place in the House (rather than the bar) called upon to respond to charges. Having heard him, the House asked him to withdraw and decided that there was substance in the charges that Crofts had joined 'with the late rebels in many notorious instances' and ordered him to be taken into custody by the serjeant-at-arms. He was immediately brought to the bar where he was shown evidence in the form of a letter, which he accepted he had signed. He then spoke again in his defence and withdrew again. The House then resolved that he had been 'a notorious betrayer of the English and Protestant interests, and laws of this kingdom, during the late rebellion', he was expelled and 'forever [was] made incapable of being a Member of this House'. Crofts was called in and on his knees at the bar—the required posture for a person receiving a reprimand at the time in both Dublin and Westminster—received the sentence. The Speaker was ordered to issue his warrant for a by-election.¹⁵⁹ Two days later Crofts, still in custody, petitioned the House 'setting forth his hearty sorrow for his offence' and was discharged on payment of the usual fees to the serjeant-at-arms.¹⁶⁰ That appears to have been the extent of his punishment and the end of the matter. There was a second very similar case a few days later which followed the same two-stage process (of indictment and trial) allowing the Member to defend himself before he too was expelled.¹⁶¹ Only where a Member refused to take the oath, or in a case in 1696 refused to sign the Association for the protection of William III, was he summarily expelled.¹⁶² In other cases—following the 1692

¹⁵⁸ *CJI(I)*, p.299

¹⁵⁹ *CJI(II)*, p.13; *HIP* biography comments that Crofts' expulsion 'illustrates one of the grey areas of the period'. He had been given a pardon on 22 Sep 1692. He sat for Charleville, co. Cork, and the Member producing the incriminating letter was Alan Brodrick, also from Cork.

¹⁶⁰ *CJI(II)*, p.15

¹⁶¹ Fergus Farrell (Lanesborough): *CJI(II)*, pp.18, 21-22, 29, 31

¹⁶² Robert Saunderson (co. Cavan), *CJI(II)*, p.147; *HIP* biography suggests he may have had Jacobite sympathies and was unpopular locally and in the Commons. After a stormy by-election he was returned by the sheriff but after a long debate on 3 Aug 1697 and by a majority of six to one the House decided that the writ had not been 'duly executed' (*II*), p.158) and ordered the sheriff to attend to amend the return in favour of one White, chosen by majority of freeholders at same time, 'notwithstanding Saunderson was returned to be inserted in his place' (*SP*, 63-359 f.304(stamped 98)). Having expelled him the Commons was not prepared to have its decision flouted. But Saunderson did sit again, in the 1713 parliament, where he was classified as a Tory.

precedents—the Member was allowed to respond. The first case in the 1703 parliament related to a statement in the report of the commissioners appointed to enquire into the Irish Forfeitures and delivered to the Westminster Commons in December 1699. Francis Annesley, lawyer, forfeiture trustee and Irish MP, was one of the commissioners and the offending paragraph alleged that current Irish freeholders were 'scarce willing to find any person guilty of the late rebellion, even upon full evidence'.¹⁶³ Chief Secretary Southwell explained that Annesley:

yet having been one of the authors of that Report which they think drew on [English legislation], and there being a great deal of personal malice mixed with it, they thought they might very well express their resentment in a thing which reflected upon themselves and yet could not be taken ill in England.

Southwell regretted the attack as Annesley was a 'gentleman of a very fair character' who has often been useful to this country, and because 'such heats do not easily stop where they are intended'.¹⁶⁴ In the event, due process was followed. The House agreed that Members' questions to Annesley would be put from the Chair. When the House asked Annesley whether he had 'signed any writing or report' to this effect, he asked to be excused from answering. (As far as the evidence shows the idea of privilege attaching to the commissioners' report or to his work for the Westminster House played no part in the proceedings.) The House found that he had 'scandalously and maliciously misrepresented and traduced the Protestant freeholders [of Ireland] to create a misunderstanding and jealousy between the people of England and the Protestants of this kingdom'.¹⁶⁵ His case, unlike those of the 1690s where there appears to have been unanimity, was subject to debate on two days and the final decision, although apparently not subject to a division, was not unanimous.¹⁶⁶ The decision too differed in that his expulsion was not for life (Annesley returned as MP for the same constituency, Downpatrick, in 1713) and the House ordered that no warrant for a by-election be issued that session¹⁶⁷—possibly to prevent him winning a by-election (as Saunderson had done in 1696) or to allow a contrite Annesley a route back; he was, as the *HIP* notes, a 'prominent politician' and had been nominated to many committees. The Annesley case has the appearance of the cut and thrust of politics within what

¹⁶³ Paragraph 78 of the commissioners' report (London, 1700) and the offending comment was published in *The History of King William the Third in III Parts* (London, 1703), (III), p.427. See also Hayton, *Ruling Ireland*, p.90.

¹⁶⁴ SP, 63–363 f.67(stamped 263) (To Lord Treasurer Godolphin, Sep 1703)

¹⁶⁵ *CJI*(II), pp.321

¹⁶⁶ *CJI*(II), pp.321; entry not *nemine contradicente*.

¹⁶⁷ *CJI*(II), pp.326–27

was acceptable behaviour and therefore a suspension rather than disqualification may have been judged the right penalty. The next Member expelled was because of his heterodox religious views. John Asgill was expelled in October 1703 for publishing a heretical pamphlet,¹⁶⁸ the decision was *nemine contradicente* and was for life.¹⁶⁹ There was one added procedural twist as at the time of his expulsion the House had received a petition challenging Asgill's election from a sitting MP. The petitioner agreed to withdraw the petition and at that point the Speaker was ordered to issue his warrant for a by-election.¹⁷⁰

3.2 Members' privilege

Coleman Dennehy sets out the background to the theory and practice of privilege, or special protections, in the seventeenth century.¹⁷¹ The purpose of privilege was to allow the House and its Members to carry out parliamentary business without interference. There were two strands to its development: (i) law and precedent; and (ii) practice. Ireland, like England, relied on law, precedent and the Commons' autonomy to set the parameters of its own privileges. Infringement of the right could be met by the House with censure, summons or incarceration. The administration could not interfere with it.¹⁷² In 1613 the Commons had clarified—in effect, expanded—the 1463/4 Irish statute on the privilege of Members that they were free 'from all suits, troubles and vexations' when it resolved that 'the true meaning' of the statute was that privilege

shall extend to all Members ... their servants, goods and possessions, for forty days before the beginning of every Parliament, and for forty days after the end and dissolution of the same; and likewise for the whole space of time between the beginning and end of the Parliament, as well during the time of every adjournment and prorogation.¹⁷³

¹⁶⁸ [John Asgill], *An argument proving, that according to the covenant of eternal life revealed in the Scriptures, man may be translated from hence into that eternal life, without passing through death altho the humane nature of Christ himself could not be thus translated till he had passed through death* (London, 1700)

¹⁶⁹ *CJI*(II), p.333-34; the House resolved that he 'be forever hereafter incapable of being chosen, return, or sitting as a Member in any succeeding Parliament'; *HIP biography* describes his parliamentary career as 'colourful'; he moved back to England and sat for a second time at Westminster until expelled in 1707 for the same pamphlet—see also *HoP*(1690) biography for Asgill.

¹⁷⁰ *CJI*(II), p.336

¹⁷¹ Dennehy, *Administrative History*, ch.5

¹⁷² In 1697 Lady Ingoldsby sought leave from the government 'to prosecute the law against Brigadier Ingoldsby, and that his protection might be taken off. The [Clerk of the English Houses] did not know what protection he had; if it were as a parliament man in Ireland, they could not meddle with it'; *SP, Entry Book* 275, p.72 (*CSPD: William III, 1697—11 June 1697*).

¹⁷³ *CJI*(I), p.26; 2&3 Edward IV, c.1

In 1662 the House of Commons stated explicitly that Members' privilege drew on English as well as Irish precedents.¹⁷⁴ The rationale was probably to bolster privilege. The story from 1692 was one of, first, narrowing of the scope of privilege, especially as it applied to individual MPs (a process that had started in the Commons in the 1640s)¹⁷⁵ and, second, a differentiation in the handling of types of cases. As in England one stimulus was to curtail abuse. At the start of the 1692 and 1695 parliaments the House reiterated a 1661 order that no Member was 'to protect any other person but his menial servants, and that the names of such servants be entered with the clerk of this House, and that none but such so entered shall be protected'.¹⁷⁶ This order not directly preceded in manuals such as Scobell's *Memorials* is based on Westminster practice¹⁷⁷ and was repeated at the start of the next parliament in 1703.¹⁷⁸ Its effectiveness is open to question. On 21 August 1697 John Burt MP, facing financial problems,¹⁷⁹ admitted to the House that he had protected several persons who were not his servants. He was ordered to be taken into custody and the protections he had given were declared void.¹⁸⁰ His case stands out and he may have been an egregious offender among a small number of cases in the 1690s, most of which came to light when the House received complaints against the protected persons.¹⁸¹ Muddle and inconsistency also characterised the arrangements. In the 1703–04 session Speaker Brodrick recorded that the House had ordered that court officers be taken into custody for arresting an MP's menial servant not entered on the clerk's list in accordance with the order of the House.¹⁸² Nor does it appear that the clerk's list was definitive. In February 1704/5 the House ordered the clerk of the House, the clerk of the Tholsel, the sheriffs of the city of Dublin, the sheriff of the county of Dublin, and other sheriffs to lay before the House an 'account of protections from the Members ...

¹⁷⁴ *CJI(I)*, pp.512-13 (30 May 1662) the House ordered the Speaker to peruse the precedents of former Irish and English parliaments and respecting privilege, to make a collection and report it 'which service will be esteemed and accepted of by this House, as of great use and advantage both to them and succeeding parliaments'. There is no direct evidence that such a collection was used after 1692. Scobell, *Memorials*, p.88 covered privilege as preceded by Westminster at some length and depicted its high-water mark.

¹⁷⁵ Dennehy notes that the first order against protections issued by MPs to those who were not their servants was in 1643—*Administrative History*, p.254.

¹⁷⁶ *CJI(II)*, pp.22, 48

¹⁷⁷ See *CJE(I)*, p.556 (15 Mar 1620/1), (VIII), p.184 (15 Nov 1660).

¹⁷⁸ *CJI(II)*, p.355

¹⁷⁹ *HIP* biography

¹⁸⁰ *CJI(II)*, p.173

¹⁸¹ *CJI(II)*, pp.53, 195, 211, 214

¹⁸² *Middleton Letters* (1248/2/123-24) (Alan Brodrick to Thomas Brodrick, 10 Feb 1703/4); the reference appears to be breach of privilege alleged by Mr Freke MP when the House ordered the Serjeants at Mace of the city of Cork be taken into custody (*CJI(II)*, p.393).

which were entered with them'.¹⁸³ The House attempted to produce a reconciled and comprehensive list but failed.¹⁸⁴ The upshot was that the House declared the entries on all lists void¹⁸⁵ and resolved unanimously that 'if any Member shall grant a protection to any person who is not his domestic menial servant, receiving wages from him, such Member shall incur the highest displeasure and censure of this House'.¹⁸⁶ Speaker Brodrick endorsed this approach and added that 'some were willing to compound for what was past for anything in future',¹⁸⁷ that is write off the past for a tighter but workable arrangement in the future, and possibly frustrate attempts to limit how long privilege ran for.¹⁸⁸ This approach drew on Westminster practice and it had ordered that, 'if any [improper protection] shall be granted by any Member, such Member shall be liable to the censure of this House'. Westminster had also limited privilege to Members' menial servants but added a requirement that where a servant was arrested or detained he or she required an order from the Speaker to be released.¹⁸⁹

The Irish House started with a fresh master list held by the clerk and the 1704/5 resolutions were repeated in February 1715/6, but with the addition that they were to be posted on the Four Courts, Tholsel and the gate of Chichester House.¹⁹⁰ In September 1721, after lists were checked, it was discovered that 20 protections in contravention of the 1715/6 resolutions had 'been granted by several Members ... since the last session' and they were declared void.¹⁹¹ The episode shows that the list system—presumably intended to cover genuine menial servants—was still in place with lists held by the clerk of the House and the sheriffs of the county and City of Dublin.¹⁹² The ineligible names may have been added after the end of the previous session. This may give an indication of the reason the House did not follow Westminster in requiring a warrant from the

¹⁸³ *CJI(II)*, p.424

¹⁸⁴ *Midleton Letters* (1248/2/173) (Alan Brodrick to St John Brodrick, 24 Feb 1704/5)

¹⁸⁵ *CJI(II)*, p.427

¹⁸⁶ *CJI(II)*, p.434

¹⁸⁷ *Midleton Letters* (1248/2/173) (Alan Brodrick to St John Brodrick, 24 Feb 1704/5)

¹⁸⁸ The question of protections was linked to attempts to restrain the use of privilege (see p.113 below).

¹⁸⁹ *CJE(X)*, pp.360-61; 28 Nov 1661 the Westminster House resolved: 'That all protections, and written certificates of the Members of this House, be declared void in law; and be forthwith withdrawn, and called in; and that none be granted for the future: and that the privilege of Members for their menial servants be observed according to law: and that, if any menial servant shall be arrested and detained, contrary to privilege, he shall, upon complaint thereof made, be discharged by order from the Speaker'. The Order was repeated in 1670, 1677, 1679, 1688, 1690, 1693, 1695 and 1712 and revised 1718 (*CJGB(XIX)*, p.82).

¹⁹⁰ *CJI(III)*, p.82

¹⁹¹ *CJI(III)*, p.256

¹⁹² *CJI(III)*, p.254

Speaker as the breaks between sittings were more frequent and long. There was another instance of alleged abuse in 1725 when William Martin, a newly elected MP, gave a protection to Dominick Donnelly, a teacher of mathematics, arrested for debt, causing him to be released. The creditor petitioned the House and the matter was rapidly resolved, presumably with Martin withdrawing the protection or Donnelly settling the debt.¹⁹³ The 1721 and 1725 events show that, despite the clear warning in the February 1715 resolution, no censure of the Members issuing these protections was made. These cases may, however, have been the exceptions showing that the rule restricting protections to menial servants was operating as intended. There was a counter-weight to abuse as the Martin case showed: the party running up against privilege could petition the Commons for redress.

The system of protections had a sectarian dimension. In November 1696 the Commons resolved unanimously that 'no papist be protected by any Member of this House as his menial servant'.¹⁹⁴ The resolution was not referred to again in the period covered by this thesis and it was not included in the later 1715 resolutions on protections. The implication is that no Member would have considered giving such a protection. Edward and Annie Porritt took the resolution as part of the penal laws and another manifestation of the ingrained sectarian outlook of Members not requiring explicit mention.¹⁹⁵

The Journals show how a lists system worked. In June 1705 the sub-sheriff of the city of Dublin petitioned the House for release from custody having issued a warrant for the arrest of an MP, William Phillips. A bailiff had come to the sheriff's office with a writ already sealed against Phillips. There was a list of Members in the office (presumably the published list), to which the clerk had 'recourse when any process comes to the office'. On this occasion the sub-sheriff was not present and a junior officer found 'William Phillips Esq' on the list of Members but as the writ was made out to William Phillips without *Esq* he believed it could not be the same person. He filled out a blank warrant and Phillips was arrested but, when he explained to the bailiff that he was an MP, was released. The sub-sheriff told the Commons that he had warned his staff always to check the list

¹⁹³ *CJ*(III), pp.430, 433

¹⁹⁴ *CJ*(II), p.150

¹⁹⁵ Porritts, *Unreformed House*(II), p.460

before initiating a process; he was discharged paying his fees.¹⁹⁶ The incident illustrates that, for the system of protections to operate, up-to-date lists of those protected were essential for the sheriffs in Dublin, when MPs and their servants were in the city. Local officers were obviously aware of the effect of protection of privilege and the risks of violating it. The House attached some blame to the sub-sheriff as he had to pay his fees before release. And it shows the significance attached to status and titles.

In contrast to the relatively few breaches of privilege concerning servants, allegations of breaches concerning property were frequent. The Journals record 70 allegations of breach of privilege for the parliaments of 1692 and 1695. A typical entry reads: '*Ordered*, That Phelimy More Mac-Lornan be summoned to attend this House, to answer a breach of privilege complained of by Mr Dawson [Member]';¹⁹⁷ there was usually no further entry. Over 60% of these record neither the nature of the alleged breach nor the outcome. Entries from the 1660s and the 1700s are more informative and provide an indication that these terse entries in the 1690s were probably local disputes over land and property. In the 1690s it appears that the House did little more than enter the allegation in the Journals. There was probably little appetite to allow the contestants to open up a new front before the House. It should, however, be noted that in the example cited the respondent had a Gaelic name. There are other examples,¹⁹⁸ as well as respondents with Old English names, which may not only point to local land disputes, but also provide another pointer to the sectarian flavour of some of these disputes. However, caution has to be exercised as names are not a sure guide to religious affiliation and there are many examples where respondents have New English, Protestant names.¹⁹⁹ For the latter, however, there are fewer records of summonses. From the 1703–04 session the Journals provide more information on the allegations but by then there was a downward trend with the number of allegations of breach of privilege falling to around 15 in each of the final three sessions of the 1703 parliament. This downward pattern continued until 1721 before

¹⁹⁶ *CJ*(II), pp.473-74

¹⁹⁷ *CJ*(II), p.214 (11 Nov 1697)

¹⁹⁸ For example, *CJ*(II) Robert Walsh (p.95), Teigue O'Ruddy (p.136), Edmond Prendergast (pp.149-50, 153), Thomas Burke and Patrick Fahy (pp.159, 175), Michael Wall, Garret Fitzgerald and George Cahan (p.168), Hyacinth Darcy, Anthony Hine, John Gallivane, Edmond Duffe Mac-ahone and Donough Mac-ahone (p.215)

¹⁹⁹ For example, James Hamilton MP alleging breach of privilege against Hans Stevenson and another James Hamilton (*CJ*(II), pp.150-51)

reversing in the 1720s.²⁰⁰ The changes are illustrated by comparing three sessions: 1709, 1719 and 1729–30.

Cases of breach of privilege allegations (outcome recorded)	1709	1719	1729–30
Entering MP's land, dispossessing tenants or taking possessions	6 (1)	4	8
Stopping a road		1	
Interfering with MP's servants	2	2	1
Commencing legal action against MP	3 (1) ²⁰¹	1	1
Arresting an MP			1
Complaint from House of Lords against an MP	1		
Proposal to print <i>Votes</i> / printing without authority	1 (1)		1
Discharged from giving evidence to committee		1	
Prevaricating or giving false evidence to Commons/committee			2
Failing to produce/ falsifying documents to Commons/committee			2
Counterfeiting name of MP to frank letters			1
Failed to make return of writ			1
Absconding from custody			1
Total	13	9	19
Alleged perpetrator(s) summoned	4	4	
Alleged perpetrator(s) ordered into custody	3	2	9
Report by Committee of Privileges and Elections	1	1	2

Table 13 Breach of privilege allegations

In contrast to the 1690s,²⁰² nearly all the 1709 cases were sent to the Committee of Elections and Privileges, though in most the outcome was still not recorded and they were dominated by cases about land and property. The pattern was broadly the same in 1719. By 1729 a distinct category of breaches against the operation of the House emerged and these were dealt with summarily, with perpetrators often ordered into custody, a symptom of a more assertive House. There was also an increase in *land* and *servant* cases from 1721 but for the most part these cases were left to the committee, which in the majority, as before, did not report. In a few the committee reported that satisfaction was given and in others that the committee's responsibilities were discharged by the House. This implies that the rest were still before the committee and lapsed with the end of the session or that the parties reached agreement.

²⁰⁰ In each of the first four sessions of the 1715 Parliament there were 10 or fewer.

²⁰¹ See p.153 below.

²⁰² Also in earlier parliaments

In 1695 the Commons made a standing order that 'no Member of this House who shall be sued as trustee, executor, administrator, guardian, or otherwise, in *autre droit*, shall have the privilege of this House, so that his person be not molested'.²⁰³ The Commons widened the derogation in December 1697 to include non-payment of rent and the House sought and secured the concurrence of the Lords.²⁰⁴ The change may have been precipitated by a case. A possible candidate is the case of brothers Hercules and Henry Davys, both MPs, who was ordered on 1 December 1697 to attend the following morning and 'show cause why he should not waive his privilege at the suit of Mr Hercules Davys [MP], being only a trustee'.²⁰⁵ On 2 December, the day the House agreed the order on non-payment of rents, it ordered that both had 'leave to waive their privilege mutually, in any suit to be commenced by either person',²⁰⁶ and so stood back from this fraternal wrangle. Irrespective of whether or not the case was directly relevant to the order, it does illustrate a dilemma for the courts and litigants: how to deal with an obstructive Member insisting on his privilege. It is not clear whether the general orders of the House were directions to Members to waive privilege in the circumstances described, but which they could still refuse to do. The solution adopted in the next parliament was to legislate.

The House also reduced the duration of privilege. By the 1690s it was recognised that the provision of privilege starting 40 days before a parliament met²⁰⁷ and lasting 40 days after it ended was excessive. Litigants wishing to take action against an MP on a matter subject to a statutory limitation were prevented unless they petitioned the House to lift privilege.²⁰⁸ In a letter written on 21 February 1704/5 Alan Brodrick explained that when the 1463/4 statute 'was made ... the use was to dissolve and not continue parliaments by prorogation' but that pattern had changed in the seventeenth century and by the 1690s 'notice was taken of the mischiefs occasioned by privilege'.²⁰⁹ In December 1695, ahead of a recess expected to last several months, the Commons ordered that every Member who wished to 'waive his privilege in any suit brought against him

²⁰³ *CJI*(II), p.49; and see p.53. In 1703 the *CJI* recorded that an MP was given 'leave to waive his privilege in a cause in Chancery ... his name being used only in trust'. It may have been that the 1695 order had been overlooked or was treated as for that parliament only or to limit the scope of the action against the MP (II), p.378).

²⁰⁴ *CJI*(II), p.235

²⁰⁵ *CJI*(II), p.234; although not recorded in *HIP* biographies, they appear to have been brothers.

²⁰⁶ *CJI*(II), p.236

²⁰⁷ Writs had to be issued 40 days before parliament met.

²⁰⁸ See *CJI*(II), p.255.

²⁰⁹ *Middleton Letters* (1248/2/171-72) (To St John Brodrick)

during the recess shall have leave to do so'.²¹⁰ This tentative measure left the balance of advantage with the MP. On 16 March 1696/7 the House took a further step when it proposed to the Lords that both Houses restrict the privilege during the forthcoming recess which was due to run to 11 May, which they agreed. With Thomas Brodrick, Alan's brother, leading the process, the Commons suspended privilege for Members 'in any suit or matter whatsoever against a commoner, except only as to the person of such Member'.²¹¹ On 11 May 1697 the Lords proposed to the Commons a further extension of the suspension but there was opposition and a lengthy debate in the Commons. The 1614 resolutions and the 1463/4 legislation were cited and only on a division (64:45) the Commons resolved to suspend Members' privilege protecting 'goods and services from the payment of debts or other legal or equitable demands', until 15 June, after which because the matter was generating friction it was allowed to lapse.²¹² The subject did not come up again until the end of the 1698/99 session when the House withdrew privilege (except 'as to his person') from those Members who had not attended since 25 March 1697. But an attempt to project the withdrawal forward more generally to cover the impending recess failed on a division (89:49).²¹³ Alan Brodrick explained:

Sir W[illia]m Handcock was very angry ... and [said] my brother deserved to be impeached for his motion, as tending to repeal a statute by a vote: but all agreed his motion had no such tendency and many in the debate (and I particularly) said they thought there was no reason to expound the word finished in that statute so largely as that privilege should continue during a prorogation of six of twelve months. Last Trinity term upon some case or other the Chancellor and Judges agreed that by that Act privilege was not continued more than 40 days after a prorogation.²¹⁴

Privilege remained in place until 40 days after the parliament was dissolved on 14 June 1699.

²¹⁰ *CJI(II)*, p.141; the House also ordered that any protection granted without an expressed time-limit continue for no longer than a week after the recess of the House.

²¹¹ *CJI(II)*, pp.151-52; the terminology, some of the concepts in the Irish order such as the treatment of arrest and the need to communicate with the Lords are found in the Westminster resolutions on privilege of 30 Nov 1696 but the English resolution went further suspending privilege (but not arrest) when the House was not sitting (*CJE(XI)*, p.602).

²¹² *CJI(II)*, p.153; when the Houses returned on 15 June, they did not renew the suspension, although both adjourned until 27 July 1697. According to Lord Chancellor Methuen, the matter was raised on 15 June 1697 and was one of 'several things of party and faction were laid with great heat ... but we had timely notice and gained our point so entirely as to have both Houses adjourn without doing anything' (*SP*, 63-359 no.21(stamped 58) (To Lords Justice Galway, 15 June 1697)).

²¹³ *CJI(II)*, p.304; the Porritts, *Unreformed House(II)*, p.459 suggest that the reason for the former was that there were many MPs continually absenting themselves but divisions in period from Mar 1697 do not appear consistently low and reached 200 in Aug 1697.

²¹⁴ *Middleton Letters* (1248/2/171-72) (To St John Brodrick, 21 Feb 1704/5); Handcock had a point, the Irish parliament had previously legislated in 1634-35 to clarify and limit parliamentary privilege (10&11 Charles I c.12).

In 1703 the House made its first attempt to legislate on this issue. On 8 October leave was given for Clotworthy Upton and William Conolly to bring in a heads of a bill to regulate the privilege of parliament. An unusual aspect of the instruction for the heads (but not in view of the foregoing) was that they inform the Lords, seek their concurrence and request they agree to set up a joint committee to draft the heads.²¹⁵ The Lords never responded and an entry in the Lords Journal for 4 March 1703/4 stated that it was unanimously resolved that 'for the future any bill, that takes away or diminishes the privileges of this House, or any Member thereof, shall not be read a second time, unless such bill had its rise first in this House'.²¹⁶ Given that the Commons could reasonably take the same view if the legislation originated in the Lords an impasse loomed. A solution was found in the next session, though it would take a second attempt in the 1707 session before legislation reached the statute book. On each occasion both Houses started drafting heads. The timing of the preparations indicates that the Commons was in the lead, completing the draft ahead of the Lords, which started but never completed its heads but that allowed it to meet the letter of the March 1703/4 resolution.²¹⁷ Southwell threw light on the reasons why the 1705 bill failed. He explained that it would 'take off all the objection to the stop of justice in the long continuance of a parliament, and will be much for Her Majesty's service as well as the public in general'.²¹⁸ Subsequently, 'although it had its rise with us [the Irish parliament], and was occasioned by the unlimited rise of protections, yet upon a second consideration they were loath to part with the privilege, and so upon a division the bill was lost'.²¹⁹ The second heads brought in during the next session, 1707,

²¹⁵ *CJII*(II), p.330; see also Bergin, 'Irish Legislative Procedure', pp.30-31.

²¹⁶ *LJI*(II), p.86 Message requesting a joint committee had been delivered to the House of Lords 9 Oct 1703—*LJI*(II), p.14.

²¹⁷	1704/5 heads of bill	Commons (data from Bill no.2156 (<i>ILD</i>))	Lords (data from Bill no.5175 (<i>ILD</i>))
	Leave or order	10 Feb	17 Feb
	Read and committed	17 Feb	—
	Reported	9 Mar	—
	Sent to lord lieutenant	9 Mar	—
	1707 heads of bill	Commons (data from Bill no.2157 (<i>ILD</i>))	Lords (data from Bill no.5249 (<i>ILD</i>))
	Leave or order	7 July	11 July
	Read and committed	12 July	19 July
	Reported	18 July	—
	Sent to lord lieutenant	29 July	—

²¹⁸ *SP*, 63–365 f.156(stamped 172) (Signed by Lord Lieutenant Ormond but text appears to be written by Southwell to Secretary of State Hedges, 29 Mar 1705)

²¹⁹ *SP*, 63–365 f.281(stamped 263) (Southwell to Hedges, 26 May 1705) *CJII*(II), p.469 records it was negatived when the question was put to commit the bill.

were managed by Samuel Dopping and reached the statute book in October 1707.²²⁰ The main provisions in the 1707 Act, which applied to Members of both Houses, are listed in Appendix 6.15 with a commentary and include comparison with the English Act of 1701 on privilege.²²¹ While starting from the same concept of privilege and overlapping in terminology and seeking to reduce the coverage of privilege, the Irish provisions were not in step with Westminster. They followed some of the English developments but at a slower rate and were crafted to meet the requirements of the Dublin House. This is shown by omissions. The Irish provisions contain no mention of servants, the inclusion of which may have limited Members' scope to issue protections. In its standing orders the Irish House, in contrast to Westminster, had no explicit role for the Speaker or a requirement that a person could not be taken into custody by the serjeant-at-arms without a process of examination.²²²

From 1707 to 1730 the Journals contain orders for the summary arrest of those in alleged breach of the privilege of an individual MP. In most of these cases the Member claimed that he had been physically or verbally attacked or libelled.²²³ A few concerned land or property or where legal processes were initiated against an MP²²⁴ and they fell into two categories. The first were those where the circumstances were aggravated—for example, where the serving of a subpoena was accompanied with 'disrespectful and provoking language'.²²⁵ The second category is problematic in that it may, again, have a sectarian bias. Two cases illustrate. In the first Thomas Brodrick MP alleged breach when an action for ejectment was commenced by 'Francis Murrough, the son of a forfeiting proprietor in the rebellion of 1641'; on 23 June 1710 Murrough was ordered to be taken onto custody and his solicitor to attend the following morning; and on 8 August he was discharged having acknowledged the breach, expressing sorrow, and being reprimanded on his knees at the bar of the House.²²⁶ The second case was in October 1711 when Cornelius Donovan and Teigue Dyer were ordered to be taken into custody for forcibly entering lands of Ralph Freke MP. The outcome of the case was not recorded but Cornelius Donovan Jr. assaulted a messenger assisting

²²⁰ Bill no.2157 (*ILD*): 6 Anne c.8

²²¹ 12&13 William III (England) c.3

²²² *CJE*(XI), p.343

²²³ For example, *CJI*(III), pp.84, 170, 255, 370, 551

²²⁴ Most were sent to the Committee of Privileges and Elections; for example: *CJI*(II), pp.587, 650; (III), pp.155, 636

²²⁵ *CJI*(II), p.719

²²⁶ *CJI*(II), pp.668-70, 672

the apprehension of his father, and the Commons asked the lord lieutenant to direct the attorney general to prosecute him.²²⁷ This case again rests on the likely provenance of the names of the respondents and the punishment meted out to Donovan. The absence of a requirement for examination before ordering custody allowed the House to exercise a sectarian bias.²²⁸

On the basis of its standing orders Westminster's narrowing of the scope and duration of privilege was in advance of Dublin's, which, while treading the same path as Westminster, progressed at a slower pace. One reason that the Irish House did not replicate Westminster was practical. The lifting of privilege when the House adjourned for more than 14 days worked at Westminster as sessions were not usually interrupted with lengthy adjournments. In contrast the Irish parliament, because of the requirements of Poynings' Law, was usually adjourned for between three and six weeks while bills were sent and returned to Whitehall. Not only would Members' protection have lapsed but also that of those in debt and sheltering under the House's privilege while private legislation was obtained. The alternative was frequent, short and inconvenient sittings every two weeks.

Over time the pattern of prorogations changed. During prorogation the 40 day rule counted twice: from the date of the proclamation and 40 days before the House was due to reconvene as set in the proclamation.²²⁹ Short prorogations led to criticism as Southwell noted in 1712:

the country having often complained that short prorogations (as they had been lately practised) had for many years hindered the course of justice against such as had privilege, it was the unanimous opinion of those [Ormond] consulted ... that it should be for the public service to have the prorogation at least clear of the 3 [ensuing?] terms.²³⁰

The end result was a pattern of long and short prorogations (see Appendix 6.1) which normally gave a period which was out of privilege for several months and which overlapped with a legal

²²⁷ *CJI(II)*, pp.721, 730-31

²²⁸ On 12 Dec 1698 Westminster: '*Resolved*, That no Person be taken into custody of the Serjeant at Arms, upon any Complaint of breach of privilege, until the matter of such complaint have been examined by the Committee of Privileges; and reported to the House' (*CJE(XII)*, p.349).

²²⁹ *Proclamations(II)*, p.129: citing *Whalley's Newsletter*: 'The parliament of Ireland was prorogued ... till 25th of March next, when it is thought it will sit to despatch business, so the privilege of parliament will be out from the 18th day of Oct next, till the 14th of February. [Dublin,] the sixth of September 1722'.

²³⁰ *SP*, 63–367 f.322(stamped 266) (Southwell to Secretary of State Dartmouth, 16 Aug 1712) The same point was concerning Lord Lieutenant Grafton when he wrote to Secretary of State Carteret seeking a long prorogation (*SP*, 63–383(stamped 63) (12 Feb 1723/4).

term when the courts were sitting. (The 40 day period was eventually shortened and brought into line with Westminster in 1728.)²³¹

Limitation of privilege by legislation (and standing order) was supplemented by waivers ordered by the House. Waivers had two functions. First, the House collectively could lift its privilege in individual cases. Second, it gave certainty to the position of an MP participating in legal action. Waivers fell into two categories. First, those sought voluntarily: (i) by an MP to enable him to respond to, or appear as a witness in, litigation,²³² though these fell off after the 1707 legislation on privilege;²³³ and (ii) to allow Members who were barristers to appear before the courts.²³⁴ Leave was nearly always granted by the House.²³⁵ The second category was to allow legal action against a Member where the MP was actively or passively (usually by non-attendance in the House) resisting the granting of a waiver. The procedure, as in 1698 when Mary Burt petitioned praying that her husband John Burt MP waive his privilege to allow her to sue him for alimony, was for the Member to be summoned to respond.²³⁶ In this case Burt, having been summoned several times, failed to appear and the House ordered that his privilege be waived.²³⁷

3.3 Corporate privileges of House of Commons

The beginning of the 1695 parliament also saw rules on the privileges of the House itself, as a discrete body and to ensure the effective operation of emerging processes such as heads of bills. On 16 September the House ordered that all persons summoned as witnesses were protected during such attendance.²³⁸ Those seeking bills to pay creditors faced risk of imprisonment given

²³¹ 1 George II c.8

²³² For example, *CJI*(II), pp.222, 284, 371, 508

²³³ From 1707 when consent was given to an MP it was often qualified 'at his own request' (see *CJI*(II), pp.619). That was unlikely to mean that earlier consents were given in the face of objection by the MP but may indicate that rather than wait for the lapse of privilege during prorogation the MP had requested the waiver. The qualification ceased to be used from 1710 to 1715 ((II), pp.658) which is unlikely to indicate a change in circumstances under which the waiver was sought but was done to a standard formula. It re-appeared again from 1716 ((III), pp.107, 160, 366, 375, 422, 562).

²³⁴ For example, *CJI*(II), pp.259, 287, 335, 404 (on this occasion six MPs were given a waiver to appear in a case before the House of Lords), 463 (an example of Speaker Brodrick being allowed to practice during the recess), 679; (III), pp.291, 368, 419 (with the ending of the appellate jurisdiction of the House of Lords in 1720 the nature of business changed to pleading on petitions and privilege cases).

²³⁵ There is one instance where it was refused: 12 Nov 1729 the House refused leave to Richard Tighe in the suit of the church-wardens and parishioners of St. Anne's, Dublin (*CJI*(III), p.596).

²³⁶ *CJI*(II), p.275

²³⁷ *CJI*(II), pp.277-78, 280

²³⁸ *CJI*(II), p.61

the uncertainties and length of the time the heads process required. On 7 October 1695 the Commons ordered that:

all such persons as have obtained the protection of this House, or shall hereafter obtain the same, to enable them to prosecute bills for payment of the debts, to prosecute the same within ten days after such order is obtained, otherwise their protections to be void.²³⁹

Immediately before the order was made the House had issued four protections to debtors mostly as the request of their creditors—or more correctly Protestant creditors—seeking legislation to allow assets to be sold.²⁴⁰ With the October 1695 order the Journals no longer record protections issued in tandem with private bills but the process may have been carried out by an entry made by the clerk in his book of protections. It is unlikely protections were issued by MPs in respect of legislation they were supporting,²⁴¹ though, as the case below suggests, those sheltering under the House's protection may not have understood the technicalities.

The 1703 case of Jeffrey Blake shows that those seeking bills had protection (as well as revealing how the heads process worked). Blake had turned Protestant about eight years before and had previously failed twice to secure a bill to prevent his father, Walter, disinheriting him. By 1703 he was destitute and living in England when Francis Lynch, a Catholic Dublin Merchant²⁴² whose daughter was married to Blake's younger brother, Valentine, brought him back and funded a petition and the drafting of a bill for relief against his father (for the sum of £50 sterling).²⁴³ Blake asked his counsel, John Rivet, who drew up the bill, to insert a clause to secure that Lynch would be the first paid when he obtained the inheritance but Rivet said that it was 'not proper to be done'. Walter petitioned against the heads asking to be heard by counsel at bar—an indication of the family's wealth²⁴⁴—but the Commons rejected his request.²⁴⁵ At this point his father died and,

²³⁹ *CJI*(II), p.83

²⁴⁰ *CJI*(II), pp.48 (31 Aug 1695), 54 (7 Sep 1695), 55 (9 Sep 1695), 61 (16 Sep 1695), 83 (7 Oct 1695); the explicitly sectarian bias of the petitioners was aimed at securing a favourable response in the Commons; it did not appear to mean that the debtor was left vulnerable to litigation by Catholic creditors.

²⁴¹ The first limitation (*CJI*(II), p.48; 31 Aug 1695) on protections restricts protections to MPs 'menial servants and to no other group and therefore a protection issued by an MP as sponsor would be in breach of this order.

²⁴² Sylvester Lloyd described Lynch as 'eminent for making his fortune with hands not head', Ian McBride, 'Catholic Politics in the Penal Era: Father Sylvester Lloyd and the Devlin Address of 1727', *Eighteenth-Century Ireland*, vol. 26 (2011), p.134.

²⁴³ Lynch may have been protecting part of the estate for his second son; the case predated, just, the 1704 act (2 Anne c.6) which enhanced the position of eldest sons who turned Protestant. The legislation was before the Privy Councils between July 1703 and Jan 1703/4 and was presented to the Commons on 14 Feb 1704/5.

²⁴⁴ £400 was to be settled on Valentine.

²⁴⁵ Walter was not only a member of the family to petition or make representations to the Commons: James in Nov 1697 and Oct 1703 (*CJI*(II), pp.230, 353; Bills nos. 5139, 5162, *ILD*); and Valentine in Nov 1703 (II), p.376; Bill no. 2441, *ILD*).

though a considerable estate descended to him, Blake needed more money to pursue the bill and Lynch loaned him another £60 in return for a mortgage. The money was handed over but Blake refused to sign the mortgage. Relations deteriorated rapidly. Hearing that Blake was planning to go to England, Lynch commenced proceedings resulting in the Dublin sheriff arresting Blake on board ship. Blake pointed out that 'he had a protection of a Member of the House of Commons'²⁴⁶ and was discharged immediately and put back on board. According to Lynch, Blake then 'out of prejudice' got him arrested by the serjeant-at-arms 'merely to blast his reputation; and not content with that, but would insinuate to the ... Commons, [that Lynch] took him ashore, kept him three days in custody, and hindered his voyage to England. All [of] which [Lynch] can prove to be false' and Lynch asked the Commons to be released and order Blake 'to pay him the expenses he has unjustly put him to'.²⁴⁷ Although the bill was rejected by the English Privy Council, the dispute continued. Blake petitioned the Commons complaining of breach of privilege by Lynch and the bailiffs who had arrested him. The House ordered them to be taken into custody. Lynch petitioned on 25 January 1703/4 (and took the unusual step of having his petition printed)²⁴⁸ to be released from custody. Blake petitioned for more time to call witnesses from England. The House, running out of patience, denied Blake his request on 28 January and ordered that the case be heard at the bar that day. Lynch and the bailiffs were released without having to pay their fees. Blake, in contrast, was reprimanded on his knees by the Speaker 'for trifling with [the] House in his evidence given at the bar [and] begging pardon of the House was discharged'.²⁴⁹

In terms of privilege the case shows that those seeking a bill were during the heads process protected by privilege. There is no entry in the Journals providing protection to Blake at the stages the heads were prepared. The claim of protection by Blake resulted in his immediate release from custody without challenge and when he petitioned the House alleging breach by Lynch and the bailiffs they were taken into custody at once. Investigation and weighing the evidence followed. Blake was given short shrift. More significantly, the case shows a rich Catholic engaging with the

²⁴⁶ The MP managing the heads appears to have been John Forster, recorder of Dublin, though, as noted, there is no evidence that such MPs issued protections and the protection may have rested on the 1695 order.

²⁴⁷ *BL, Add. 34,777, f.94, The Case of Francis Lynch of Dublin, Merchant, in reference to a Complaint made against him to the Honourable the House of Commons, of a breach of Privilege, by Mr Jeffrey Blake (n.p., [1703?]); CJI(II), pp.228, 230, 243, 321, 353, 365, 367-68*

²⁴⁸ Knights makes the point in *Representation* that publication could confer credibility and authenticity (p.236).

²⁴⁹ *CJI(II)*, pp.391-92

Commons, though going to remarkable lengths to bolster his position by printing and publicising his case. Publication of cases put to the Irish parliament was intermittent from the 1690s and uncommon. In this instance, Jeffrey Blake's case had already been made in print,²⁵⁰ and the publication putting Lynch's case may have been designed to counteract the presumably earlier case and to give Lynch's case greater traction, which as a Catholic he may have considered was desirable.²⁵¹

While the trend during the 30 years after 1692 was to focus privilege on protecting the House's authority over its own operations and to ensure that it was not impeded in carrying out its key functions of legislating and hearing and investigating grievances, there were some transgressions outside the House where it used its powers derived from privilege. In earlier parliaments the division between what would later be characterised as executive and legislative functions was hazy with the Commons operating in the manner of a national grand jury. By the 1690s executive action by the House was declining and passing to the administration and the House's interventions were usually to request the lord lieutenant to carry out executive action or to bargain. The case of John Cuthbert illustrates the transition. On 15 September 1697 he was ordered into custody following a complaint that he had breached previous resolutions of the House not to cast money weights by uttering and selling false and deceitful weights. The House resolved that he 'was in breach of violation of the orders of this House and a great fraud of his Majesty's subjects'. As well as ordering him into custody for a gross violation of its privileges the House sent a delegation to the lords justices requesting an order prohibiting Cuthbert from making any more weights.²⁵² From 1703 such direct executive action reduced. With a few notable exceptions the Commons preferred to proceed by representations to the authorities to take action²⁵³ or by legislating.²⁵⁴ Where the

²⁵⁰ *The case of Gefry Blake a Protestant, the eldest son of Walter Blake, of Drum, in the West-Liberties of Gallway, Esq; humbly offer'd to the consideration of the Honourable the House of Commons* (n.p., [1703?]); presumably publication funded by Lynch.

²⁵¹ A small number of publications survive which aimed at influencing the attitude of the Commons to legislation; the outcome was mixed. The publications and outcome of the legislation, at which they are aimed, are at Appendix 6.16.

²⁵² *CJI*(II), p.197; Cuthbert was taken into custody, blamed the selling of weights on his wife and was released paying fees (p.201). On the last sitting day of the 1698/99 session the House ordered (as opposed to asking the lords justices to order) the attorney general to prosecute a receiver of the poll tax in co. Limerick (Patrick Felan) and his clerk (Darby Hayes) for altering assessment records. It could be this action was ordered in haste on the final day of the session ((II), p.307).

²⁵³ See action following breach of privilege by Donovan and Dyer, p.113.

²⁵⁴ An example of the latter is the action the Commons took in response to a petition in 1710 from tobacco merchants alleging malpractice in the disposal of seized tobacco and in payment of informers. It set up a committee which reported and recommended that heads be brought in. Drafting of the heads was given to the same committee

'fraud' was widespread direct, executive action was impractical. In 1707 when the House debated the quality of cloths it could only urge:

that the Master and Wardens of Weavers in the city of Dublin and Master and Wardens of Weavers in all other cities and corporate towns ... and of the seneschals of liberties, and of Justices of the peace ... to view, search and try all sorts of goods of the old and new drapery made in this kingdom; and where they find any fraudulently made and contrary to the resolution and directions [of the House], that they cause the offenders to be prosecuted at the next assizes or sessions as common cheats.²⁵⁵

The House's exhortations could take several forms. In response to a petition the House resolved on 24 February 1703/4 'that no man or woman, who lives on alms and is not able to get his or her living by his or her work or labour, is liable to pay hearth money'.²⁵⁶ How effective declarations like this were is difficult to measure. There was no spate of petitions to the Commons alleging breach of the resolution which may mean all ignored it or were unaware of it or, less likely, that it was very effective. The next level up was reminding officials to do their duty. On 29 October 1707 the House resolved unanimously that all Catholic priests were obliged to take the oath of abjuration and that any priest refusing or neglecting to take the same ought to be prosecuted and that 'it is the indispensable duty of all judges and magistrates to put the said laws in execution against Popish priests'.²⁵⁷ Again there is little evidence as to the effect of the resolutions, specifically whether they led or followed popular Protestant sentiment. These two instances highlight the near impossibility of the legislature itself policing and enforcing comprehensively the application of economic and repressive measures.

Where the House attempted to act was by singling out individuals through the impeachment of senior office-holders²⁵⁸ or pursuing an individual committing a transgression to which the House took particular exception. What particularly provoked the House was an attack in print on the political or religious beliefs underpinning the regime. It treated these in the same manner as a document containing a direct attack on the House itself.²⁵⁹ Two examples illustrate.

(*CJI*(II), p.658). When a petitioner in 1711 alleged that a coal merchant was giving short measure—even though the merchant had attempted to intimidate the petitioner and his supporters—the House asked the lord lieutenant to give directions to the attorney general to prosecute, albeit with a strong recommendation; the merchant was not ordered to be taken onto custody (*CJI*(II), pp.724-25, 729-30).

²⁵⁵ *CJI*(II), p.566

²⁵⁶ *CJI*(II), p.402

²⁵⁷ *CJI*(II), p.567

²⁵⁸ See p.155 below.

²⁵⁹ For example, in 1701 Edward Lloyd's pamphlet reflecting on the proceedings of the House (*CJI*(II), pp.513, 517), *Pue's Occurrences* of 27–30 Mar 1714 reflecting critically on the justice and honour of Commons ((III), p.16)

October 1698 The paper, 'The Injured Protestant vindicated and false and unjust Aspirations of Papists and Jacobites' ...was declared false, scandalous and seditious. The printer was identified as Joseph Ray and the House appointed a committee to go immediately and seize his papers. The House also appointed a committee to investigate who had written the paper. Ray was arrested by the Serjeant-at-Arms and his house searched. At the bar he owned up to printing the paper but denied authorship. The House ordered him to be kept in close confinement incommunicado. The House then asked the lords justices to issue a proclamation promising a reward to anyone who discovered the author. Committees working on the case came up with two names, who were summoned and taken into custody. The House then ordered another eight people to be summoned to attend. They were released and the case fizzled out with Ray acknowledging 'unbecoming behaviour and undue dealing with this House, by denying and prevaricating when first under examination, ... and praying the pity and compassion of this House'. After a reprimand he was released.²⁶⁰

November 1703 The House ordered James Malone, a bookseller apparently responsible for selling a memoir of the life of James II, be brought to the bar of the House. The serjeant-at-arms was ordered to ensure that he spoke to no one. Under examination in committee it was established that the book had been delivered to Malone by James Eustace; the House ordered that he be taken into custody and that his papers seized and sealed up. The House also ordered that the printer be taken into custody. The House authorised the Speaker to issue the warrant 'to take into custody such persons, as Dr Saunders, the chairman of the committee appointed to examine Mr Malone, bookseller, shall desire'. The outcome is unclear.²⁶¹

These cases show that the Commons had energy in initiating and pursuing investigations but turning indignation into effective action—that is identifying, assembling effective cases and punishing the culprits—could be elusive. The House was not a court of law and, while it could order detention for breach of privilege, its use of this power for what were essentially alleged breaches of the criminal law looked anomalous by the 1700s. 1703 marked a turning point. From then on the House preferred the channels of inquiry, pronouncement, legislation or impeachment.²⁶²

3.4 Procedural rules and orders made by House of Commons

This section examines rules, standing orders and precedents that the Irish House of Commons developed and used as well as its use of English/British rules and precedents. Betty Kemp, reviewing Westminster, has drawn a distinction between categories of procedural rules. She points

²⁶⁰ CJI(II), pp.250-56, 258-59, 262-64; a proclamation covering both limbs of the request was issued by the Privy Council on 18 Oct 1698 (James Kelly with Mary Ann Lyons (eds.), *The Proclamations of Ireland, 1660–1820: James II, 1685–91; William and Mary, 1689–1702; Anne, 1702–14*, vol. 2 (Dublin, 2013), p.426.

²⁶¹ CJI(II), pp.367-68, 370-71, 379-81, 389

²⁶² The latter offered an indirect route—as in the case of Lord Chancellor Phipps in 1713—to examine why a executive action was or was not carried out.

to the first standing order that Westminster made,²⁶³ a standing order of 1678, which established that the House could only be adjourned with the consent of the House and not by the Speaker alone.²⁶⁴ It was designed to put a stop to Charles II's directions that the House adjourn. Kemp sees standing orders as emerging as a distinct class of procedural arrangement, indeed self-assertion. In contrast she considers other orders—such as 'ancient orders', 'fundamental orders' and 'essential orders'—as declarations of acknowledged, past practices or discoveries in Journals. Whereas the 'declared' procedures were analogous to unwritten customary law and looked to the past, she sees standing orders as 'new' promulgated law and looking forward responding to political events or procedural requirements. This section examines Kemp's view of standing orders as a distinct category that can be applied to the self-conscious procedural directions of the Irish Commons.²⁶⁵ The development of promulgated procedural directives by the Irish House provides a measure not only of Kemp's concept of standing order but also of the extent to which the Irish legislature developed procedures to meet its own needs and circumstances. A related issue is the extent to which the procedural directives of the House were made to address political or procedural difficulties or were made by the Irish House copying Westminster procedure.

The Journals of the 1613 parliament show the House making procedural *rules*. The entries for 22 and 24 October 1614 record three 'rules of the House' that:

- before any private petition be read, it must be first moved by one of the House;²⁶⁶
- if the bar be down, no Member that comes in may open it, but must go about to his place; and
- five pounds be given to the poor for every private bill that passes.²⁶⁷

The second was for the convenience of the House. The first and third rules are of more significance as they contain no reference to precedent but echo procedures in operation in England—for instance, 'that upon every private bill, something must be given to the poor'.²⁶⁸ While

²⁶³ There were two early orders which declared previously passed resolutions of the House to be standing orders.

²⁶⁴ Betty Kemp, *Votes and Standing Orders of the House of Commons: the beginning* (London, 1971), pp.3ff

²⁶⁵ Whether the distinction is as clear as Kemp suggests is a separate matter. Terminological change, she notes, may not reflect a procedural change in the 1670s and that (as was the case in Ireland) 'new promulgated' changes previously had different labels.

²⁶⁶ *CJI*(I), p.16

²⁶⁷ *CJI*(I), p.17

²⁶⁸ 15 Dec 1601; see Appendix 6.13.

it may be correct—as Dennehy notes²⁶⁹—that it is difficult to discern what, if any, impact the procedures set out in the available treatises, particularly John Hooker²⁷⁰ may have had on the operation of the Irish parliament, Hooker's purpose was to show the operation of a model parliament based on Westminster for the benefit of those sitting in the Irish parliament in Elizabeth I's reign. The idea of looking to Westminster would not therefore have been alien to Irish Members in the seventeenth century.

During the seventeenth century Irish parliaments often reviewed their procedural arrangements and made rules in batches at the beginning of a parliament (see Appendix 6.13.1). By the 1661 parliament the Commons had become more aware of its status and precedents when it appointed a committee 'to view the orders and former practices made and observed by preceding parliaments in this kingdom' and to report;²⁷¹ there are no entries in the Journal of a report but there was a burst of rule-making in June-July 1661 (and two more in May-June 1662 and February-March 1665/6). The provenance or circumstances are not given but they appear to be a combination of imported (and adapted) practice from England and constructions to meet specific cases or problems.²⁷² The terminology appears inconsistent as most of the changes were made simply as *orders* but in one case as a *rule*. Two other categories make single appearances—the *opinion* and the *view*—the status and provenance of which are not clear. They imply both a clarification of an older rule and new departure. Variation in terminology continued after 1692 with 'sense of the House' appearing in place of *view* and *opinion*.²⁷³ The 'new' Westminster terminology of *standing order* was first used in September 1695 when the Irish House, as noted, '*Ordered*, and *declared* that a Member sued as trustee, etc. did not have parliamentary privilege and that 'this be the standing rule and order of this House'.²⁷⁴ The belt-and-braces terminology of 'rule' and 'order' and 'ordered' and 'declared' may indicate a degree of unfamiliarity or, more likely, it may copy the

²⁶⁹ Dennehy, *Administrative History*, p.234

²⁷⁰ By 1690s parts of *Parliament in Elizabethan England: John Hooker's Order and Usage* (Vernon F. Snow (ed.) (Yale, 1977)) were out-of-date or had been left behind by changes such as the procedures on supply and printing of *Votes*; other parts were of little relevance to Ireland such as regular attendance of the monarch at parliament; but other sections addressing the authority of parliament and MPs' code of behaviour and etiquette were current.

²⁷¹ *CJI(I)*, p.387

²⁷² For example, those made on 27 May 1662 in respect of divisions (*CJI(I)*, p.510)

²⁷³ An electronic search of pre-1700 *CJE* records the phrase in the early and middle parts of seventeenth century to record the view of, or sentiments within, the House on a question or matter, rather than to promulgate or declare a rule. It was used in the latter sense in Ireland on rules on divisions on 17 May 1662.

²⁷⁴ See p.111 above and Appendix 6.13.1.

form used at Westminster in the 1690s.²⁷⁵ The rule-order was a clear statement of general application defining, and limiting, the parliamentary privilege of Members and was of application both to those inside and outside the House. The same issue was covered at Westminster by a standing order made in 1691.²⁷⁶ The two orders are derived from the same principle, though they differ in detail. Terminology in Dublin remained fluid and followed in the wake of Westminster. In November 1695 the House made a 'standing rule' that 'no report or new motion be made this session after one of the clock', in Westminster terms a sessional order. In September 1697 it made another 'standing rule' that 'after this day no public or private bill is passed, without being first committed after second reading, and that this be the standing rule of this House', essentially a standing order in line with Westminster practice.

A turning point was reached with the 1703–04 session. That is the last time that *standing rules* appear but they are clearly the equivalents of standing orders within the Kemp definition.²⁷⁷ Thereafter only *standing orders* are made. (*Orders* and *resolutions* continue to be made—in some cases dovetailing with standing orders—but have a greater coherence than the orders and rules of the 1660s). While the standing orders are within the Kemp definition of a new departure, they fall—with a few exceptions—into two categories.

The first group was directly grounded in Westminster procedures, though this was never explicitly acknowledged. The exclusion of strangers provides an example of both derivation and also the implementation of a standing order. From 1668 Westminster made a number of orders excluding strangers. On 15 November 1705 it made a standing order excluding strangers from the 'body of the House' and its galleries 'during the sitting of any committees therein'.²⁷⁸ The Irish House made its first order, a standing order, excluding strangers in 1711, though from 1707 there had been attempts to exclude strangers.²⁷⁹ The Irish arrangements contained an additional provision made as an order during the turbulent 1713 session on 11 December: 'That the serjeant-at-arms take

²⁷⁵ For example, *CJE*(XI), pp.126, 494

²⁷⁶ Although it was drawn more tightly: 'That the privilege of the House shall not be allowed to any Members thereof, in cases where they are only trustees'; *CJE*(X), p.544.

²⁷⁷ They concerned reimbursement of witnesses' costs (*CJ*(II), p.345; 2 Oct 1703) and protection of persons attending committees (*CJ*(II), p.432, 23 Feb 1703/4).

²⁷⁸ *CJE*(XV), p.26

²⁷⁹ See Appendix 6.13.

into custody all papists that are, or shall presume to come into the galleries'.²⁸⁰ Setting aside the obvious inference that the 1711 standing order was a dead-letter—at least for those identifiable as Protestants—it is clear that procedure was anchored to Westminster but the Irish House applied variations to meet local circumstances and priorities. On implementation, in a letter of 10 December 1715 Charles Dering, former MP, complained to Lord (John) Perceval, then also a former MP, that since he left the House, they 'have made a very strict order against admitting any person into their House to hear the debates excepting their own Members'.²⁸¹ Although more restricted than previously, access seems to have been fitful. Philip Perceval, another former MP, having previously supplied his brother, John, with accounts of debates starting with the 1717 session told him on 9 November 1723:

Perhaps you may wonder I have entertained you so little with an account of the debates in Parliament.... The Commons are grown so retired, that they shut themselves up, and will let nobody in, and thus we know nothing till the votes appear.²⁸²

His difficulties continued in the next session: 'as to our Parliament affairs, I cannot give you any perfect account not having often attended their debates, being unwilling on every occasion to be turned out with the crowd'.²⁸³ The correspondence shows that application of the standing order varied with the public turned out at points—possibly not only during divisions or sensitive debates.

The second group are those that are required to ensure the smooth and consistent operation of the processes that were particular Irish procedures: heads of bill and supply.²⁸⁴ On finance, standing orders at Westminster²⁸⁵ were neither transferred nor applied wholesale in Dublin. One significant standing order that was not applied was that made at Westminster on 11 June 1713 that 'this House will receive no petition for any sum of money relating to public service, but what is recommended from the crown'.²⁸⁶ Such a standing order applied in Ireland would have altered the operation, if not the equilibrium, of the supply arrangements. The rationale for it in England was

²⁸⁰ *CJI*(II), p.764; there was an English precedent when on 10 Dec 1690 the Westminster Commons had ordered that 'That no papist do presume to come into *Westminster Hall*, the Court of Requests, or lobby of this House, during the sitting of this Parliament ... That this Order be posted up at *Westminster Hall* gate, and in the lobby of this House.... That the Serjeant at Arms attending this House do take into custody all such persons as shall offend against the said Order' (*CJE*(X), p.503).

²⁸¹ *BL*, *Add.* 47,028, f.109

²⁸² *BL*, *Add.* 47,030, f.35

²⁸³ *BL*, *Add.* 47,031, f.93 (1 Feb 1725/6)

²⁸⁴ *CJI*(II), pp.326 (2 Oct 1703), 365 (12 Nov 1703), 447 (12 Mar 1704/5); (III), 388 (10 Feb 1723/4)

²⁸⁵ Kemp, *Votes*, pp.32ff

²⁸⁶ *CJGB*(XVII), p.417

to stop MPs loading supply bills with expenditure that benefitted them directly or interests to which they were linked. In stopping pork-barrelling it gave the initiative for increasing expenditure to the government. In Ireland such a measure would have come up against both the operation and symbolism of 'sole right'. Instead it was overlooked, leaving Irish Members free to make proposals for public expenditure without the administration's prior approval.²⁸⁷ Where the Irish House used standing orders was to bolster its control and scrutiny of supply. At the end of the 1715–16 session the House unanimously made a standing order 'that no money bill be read in this House until the report from the committee of accounts be first made'.²⁸⁸ This was a clear marker, with the short money bill preserving the royal prerogative out of the way, that the House would take full control of supply in the future sessions of the parliament. At the beginning of the 1727 parliament Marmaduke Coghill described attempts to undermine the residual prerogative:

The only ruffle we have had ... Vesey moved for reviving an order of the House made last Parliament that no money bill should be received till after the report was made by the Committee of Accounts. [The] topics they insisted on were the security this would be against a practice that had been used of bringing money bills when there was no occasion, or perhaps giving more in such money bills than was wanting.

Coghill set out the counter arguments both constitutional and practical that having 'resolved to do as much for His Majesty as any of his predecessors, we should not the next minute contradict that resolution by refusing' the money bill and

if [the short money] bill was not passed, the funds would expire and we should have such a quantity of goods brought in, before the report from the Committee of Accounts could be made and a money bill framed, that neither civil nor military list could be supported for want of additional duties.

The opposition lost the arguments and decided not to oppose the bill but Richard Stewart proposed a resolution that:

the exigency of His Majesty's affairs requiring a money bill at this time before the report from the Committee of Accounts could be made, that the same should be received and the resolution dispensed with. It was said that this would be as a great compliment to the King, as we could make him, by breaking through a rule of such importance for his service, this indeed surprised everybody, that a motion so unparliamentary should come from a man of so good sense, and was no way relished by anybody.²⁸⁹

The exchanges, although taking place at the end of a debate with the opposition in retreat, show that the concept of a standing order running from one parliament to another was not established.

²⁸⁷ See also pp.225ff below.

²⁸⁸ *CJ(III)*, p.91

²⁸⁹ *Coghill Letters*, no.27 (To Southwell, 8 Dec 1727)

Nor was the concept of making a standing order and then allowing an exception. The upshot was that the House passed the bill and then reiterated the standing order. The Kemp model of the standing order as a new rule is a useful starting point for the analysis of the Irish House's rules and standing orders. But it does not work for the Irish House. New rules, that is Westminster procedures, had been imported from the sixteenth century and were given a variety of labels. By the early eighteenth century the term standing order had become familiar in Dublin and could be used to import Westminster procedures, as necessary, without acknowledging the provenance. They could be adapted for Irish use. But their position as elevated procedures was not given special status and could be reversed or ignored.

The dogs that did not bark can be missed. Westminster's orders, rules and standing orders covering everything from decency and behaviour in the House to the handling of private bills were not replicated in the orders recorded in the Irish Journals.²⁹⁰ Some may not have been needed such as those directed at keeping the passageways around the chamber free and well lit. Those on behaviour may have been framed because of a particular incident at Westminster which did not arise in Dublin. Others such as the Westminster prohibition against tobacco,²⁹¹ which were not replicated in the Irish Journals, pose a problem. The absence of any contemporary comment that Irish MPs smoked in the chamber points to the Irish House following Westminster, which indicates that behaviour and even procedures in Dublin followed Westminster without the need of orders and rules. In other areas—Westminster's rules on supply and bill procedures—did not fit with the operation of Irish House and were not transferred. In some cases—privilege and setting time at which business could or could not be taken—the Irish House lagged behind or adapted Westminster's rules and orders to meet its requirements.

3.5 Use of precedents

The use of precedents by the Irish House throws light on both its actual autonomy and pretensions to sovereignty. Irish parliamentarians in the 1690s claimed a discrete, institutional pedigree back to the twelfth century. This claim, as was the norm in the seventeenth century and fitted Whig legal-

²⁹⁰ See *Orders* (London, 1747).

²⁹¹ 23 Mar 1693/4: '*Ordered*, That no Member of the House do presume to take tobacco in the Gallery of the House'. '*Ordered*, That no Member of the House do presume to take tobacco at the Table, sitting at committees' (*CJE(XI)*, p.137).

historical orthodoxies summed up by Mark Goldie as "immemorialism",²⁹² was underpinned with an 'ancient' text, the *Modus Tenendi Parliamenta et Consilia in Hibernia*, a fifteenth-century document that was an Irish version of an earlier English treatise. It was first published by Bishop Dopping ahead of the 1692 parliament assembling and purported to show that parliaments had been called in Ireland from the twelfth century and firmly anchored to the Irish parliament to the English model. (Henry Elsyng in *The Ancient Method and Manner of Holding of Parliaments in England*, published in 1660 and 1679, gave prominence and cited the English *Modus* as had commentators such as Sir Edward Coke.)²⁹³ The *Modus* (nor Elsyng's either) was of little practical use in running a parliament in the 1690s and it was never cited as a source in any discussion of precedents in the Commons or in correspondence.²⁹⁴ What it showed was an increasing awareness of, and sensitivity to, the status of the parliament. William Molyneux in *The Case of Ireland*, cited it several times as it fitted with his argument on the longevity and autonomy of the Irish parliament.²⁹⁵

If Molyneux was accurate, there should have been procedural divergence and a growing separation between Westminster and Dublin but that was not the case. The start of the 1692 parliament, as on previous occasions, stimulated examination of procedural arrangements. Appendix 6.13.3 shows that the Commons examined its own records from earlier in the century (but not from 1689) on questions such as whether the Speaker could present bills for royal assent. The House's interest in its own precedents declined and within a decade had narrowed to little more than its dealings with the House of Lords. (Conferences between the Houses were often to resolve a conflict and as the dignity and privileges of each House were on show both Houses had recourse to precedents; this was also the pattern at Westminster.) William Molyneux chaired at least one committee which examined parliamentary precedents and while he cited precedents in *The Case of Ireland*, they were legal and had a focus on the making of law and the applicability (or

²⁹² In Glassey, *Reigns*, p.32

²⁹³ Henry Elsyng, *The Ancient Method and Manner of holding Parliaments in England* (London, 1660) [facsimile edition 1971] (London, [4th edition] 1679), p.2

²⁹⁴ Its medieval anachronisms—deliberations on war and peace, involvement of Peers in supply, and the fact that it predated and took no account of the arrangements derived from Poyning's Law—cut across not only how the Irish parliament operated in the seventeenth century but in procedural terms undermined claims that the Commons was asserting in the 1690s.

²⁹⁵ Molyneux, *Case*, pp.56, 63, 71, 85-86, 104, 110, 142

not) of English statutes to Ireland.²⁹⁶ None appear to have come from the records of the Irish parliament. There were several reasons. First, once the Irish parliament began to meet frequently and procedures were used regularly and became familiar, there was less reason to have recourse to precedents.²⁹⁷ Second, the examination of precedents was not a dispassionate exercise producing a result acceptable to all parties. In October 1695 the House appointed a committee to search for precedents that judges could administer oaths to witnesses before the Commons.²⁹⁸ Alan Brodrick reported that it was no infringement of the judicature of the Lords and that it was 'parliamentary of the House of Commons to receive evidence of witnesses who have been sworn, of which there are several precedents', which were not cited in the Journal entry.²⁹⁹ The Lords did not share his view. Third, what precedents should the Commons use, which begged the question of what to do if Irish and Westminster's precedents diverged? At the start of the seventeenth century there had been some uncertainty about the application of English precedents when the Commons in 1614 considered arrangements for a conference with the House of Lords:

Several Motions were made, touching the manner of the conference in point of sitting or standing, [heads] covered or uncovered.

In *England*, the precedent is that the commissioners for the Commons do, in the conference, stand uncovered, the Lords commissioners sitting covered; but because there is no such precedent here of any conference, it is questioned, whether the new commissioners shall follow the precedent in *England*, or to sit covered, as a new precedent for this Kingdom, where there is none other yet to follow.³⁰⁰

This entry captured the predicament of the Commons: should it set its own precedents and diverge or should it instead give weight to those of Westminster? The entry shows that the Irish House had knowledge of Westminster practice—possibly manuscript copies of the Journals. (Hooker has nothing to say on conferences between the Houses.)

The parliament that met in 1613 also had access to at least the records of the previous parliament (1585–86) because when considering whether judges could sit in the Commons 'it was thought fit ... that the rolls and books of the last parliament be brought' to establish if there were any

²⁹⁶ Molyneux, *Case*, pp.29-39

²⁹⁷ An example was the delivery of the speech from the throne before the Speaker was elected.

²⁹⁸ *CJI*(II), p.102, *BL, Add.* 28,879 f.210 (18 Oct 1695)

²⁹⁹ *CJI*(II), p.104

³⁰⁰ *CJI*(I), p.21

precedents.³⁰¹ At some point in the early seventeenth century the pre-1613 records appear to have been lost as no pre-1613 precedents were cited in the printed Journals or in any later parliament. When searching for precedents on the swearing of the clerks the committee appointed in 1692 cited four precedents from the Irish Journals—25 November 1614, 18 April 1615, and 17 and 18 July 1634.³⁰² On the basis of the printed Journals this is a comprehensive list of the Irish precedents.

As the 1614 entry on conferences makes clear the absence of precedents could have been a stimulus for the Irish House to strike out on its own. It did not. By the middle of the seventeenth century, English precedents carried equal weight with, if not more than, Irish. In 1662 the House ordered the Speaker to peruse the precedents of former parliaments of Ireland and England and 'to make a collection'.³⁰³ The episode shows that the Irish House not only regarded English precedents to be of relevance but also that it had access to Journal entries from Westminster. Moreover, the Speaker was seen as a repository for precedents and procedural knowledge.

Sabina Baltes has argued that the Irish House of Commons had a sense of historic continuity as well as its privileges as a representative body.³⁰⁴ At first sight these concepts would appear complementary but two case studies on the use of precedents show inconsistencies between them. The first is the treatment of Irish MPs who wanted to resign their seats. The Commons at Westminster resolved in March 1623/4 'that a man, after he is duly chosen, cannot relinquish' his seat.³⁰⁵ The rationale was that serving in the Commons was an obligation many only accepted reluctantly and they should not be able to escape it.³⁰⁶ Neither of the parliamentary printed manuals most likely to have been available in Dublin—Elsynge's *Ancient Method* and Scobell's *Memorials*—address the matter. In contrast, when in October 1665 the Irish Committee of Privileges and Elections examined the issue, it reported six precedents going back to the 1634 parliament showing that Irish Members had resigned and warrants for by-elections had been issued. In five cases, the Members were absent in England and in the remaining case the Member

³⁰¹ CJI(I), p.15

³⁰² CJI(II), pp.12, 16-17

³⁰³ CJI(I), pp.512-13

³⁰⁴ Sabina Baltes, *The Pamphlet Controversy about Wood's Halfpence (1722–25) and the Tradition of Irish Constitutional Nationalism* (New York, 2003), p.54

³⁰⁵ CJE(I), p.724

³⁰⁶ See Snow, *Parliament*, p.143.

'wilfully refused to appear [during the] last and the present sessions'.³⁰⁷ The House accepted the precedents and reaffirmed its approach to allow resignation (presumably because Members would continue to leave the country for long periods and needed to be able to resign and be replaced). There was no reference to English precedents which pointed to a different conclusion. The Irish practice of allowing MPs to resign continued after 1692.³⁰⁸ In December 1695 the House made a determined effort to improve attendance going as far as to expel Sir John Trevor, MP for Newry, because he had not been 'excused, having hitherto neglected to attend the service of this House, or to make request that he might be excused'.³⁰⁹

All changed in March 1704/5. The most recent case of voluntary resignation had only been on 28 February when an MP had been allowed to resign.³¹⁰ When, however, on the following day the Speaker informed the House that he had received a letter from St. John Brodrick (brother of Alan Brodrick, and St. John had previously been allowed to 'resign' in 1695) 'expressing his concern that he cannot attend the service of the House, and desiring some other might be chosen to serve in his room',³¹¹ no writ was issued. A committee was appointed 'to search precedents where Members have withdrawn from the service of the House'. On 20 March 1704/5 William Conolly reported, on behalf of the committee, precedents from 1634 to the recent February 1704/5 instance but came to a resolution:

that the excusing Members at their own request, or upon their letters, from the service of this House, and thereupon issuing out new writs to re-elect other Members to serve in their places, is of dangerous consequence, and tends to the subversion of the constitution of parliament.³¹²

On the following day the House unanimously endorsed the report and resolved:

That it be declared the standing order of this House, that no new writs for electing Members of parliament, in the places of Members excusing themselves from the service of this House, do issue at the desire of such Members, notwithstanding any former precedent to the contrary.³¹³

³⁰⁷ *CJI(I)*, pp.659-60

³⁰⁸ For example: *CJI(II)*, p.53 (6 Sep 1695) the Speaker read a letter from St. John Brodrick to say he was ill in England and could not attend and desired the Speaker to issue a writ for a by-election, which the House ordered.

³⁰⁹ *CJI(II)*, p.138

³¹⁰ For other examples: *CJI(II)*, pp.117 (19 Nov 1695) Richard Barry being unable to attend, p.436 (28 Feb 1704/5) James Caulfield obliged to travel overseas; in each case the MP wrote to the Speaker, who then informed the House.

³¹¹ *CJI(I)*, p.438

³¹² *CJI(I)*, p.459

³¹³ *CJI(I)*, p.460

It is difficult, however, to see how the resignation of a handful of MPs since the 1630s could subvert the constitution, and while it may have been that the numbers wishing to resign were increasing, there appears to have been no difficulty in finding replacement candidates. So in operational terms the justification does not seem credible. But the decision taken on 21 March could not have been clearer: it was made unanimously and was a deliberate reversal of a well-established procedure. One possible explanation for the about-turn may have been what was happening at Westminster. At this time English MPs who accepted 'offices of profit' from the government were under increasing pressure to leave parliament. In 1705 a compromise emerged at Westminster: those who accepted certain offices triggered a by-election, at which they could stand for re-election. (Within the next decade the mechanism evolved into a device to allow MPs at Westminster to vacate their seats voluntarily.)³¹⁴ It was, however, predicated on the basis that it was parliamentary practice that Members could not resign voluntarily. The 1705 change in Ireland brought the Irish House into line with Westminster practice.

Evidence for the change is meagre. Of more significance may be what was not said in making the change in March 1705. There was no reference to Westminster precedents, though, as noted, until the 1690s English precedents had previously been examined and cited. Nor are there any references to published parliamentary manuals such as Elsynge's *Ancient Method* or Scobell's *Memorials*, which extensively cited English precedents.³¹⁵ To cite English precedents to justify the 1705 change would have meant that they carried more weight than Irish precedents. Instead, Westminster practice was adopted under the guise of the 'constitution of parliament'; in reality a replication of English procedures and a pattern of representative legislature seen in the British colonies across the north Atlantic. This had the advantage of side-stepping the question of which precedents predominated and the even more problematic answer—the English. The position and status of a Member was central to operation of parliament and once the Irish House decided to make the change to follow the only parliamentary model available, Westminster, cloaking its decision in accordance with the 'constitution of parliament' preserved the facade that Ireland was a separate and distinct kingdom with the Irish parliament as the keystone.

³¹⁴ *HoP(1690)(I)*, pp.408-09, Porritts, *Unreformed House(I)*, pp.209-12

³¹⁵ Elsynge, *Ancient Method* and Scobell, *Memorials*

In taking the step the Irish House was, however, going down a procedural cul-de-sac, though this was not clear at the time. Ireland would not have a *Place Act* until the end of the century, to allow Members to resign, and had no equivalent of the English Triennial Act, to flush out regularly those who had given up. In addition, there were few effective sanctions to require attendance by the infirm, the lazy and those who had left Ireland. No alternative mechanism to facilitate resignation was developed. The reason may have been that there was no Westminster equivalent other than the *Place Act* arrangement. In practical terms, however, the ill-effects of the change were marginal and unforeseen—until probably the 23-year-long parliament of George II. There was no obvious requirement to make the change, in order to make relations with Westminster functional.

The second case concerns 'sole right'. The government of William III, in calling a parliament in 1692 after the war ended, may have expected a re-run of the 1661 parliament with, on this occasion, a focus on enacting the resented Treaty of Limerick that concluded the war along with an administration-led refurbishment of the statute book and an advantageous financial settlement.³¹⁶ Instead, circumstances had changed and the Irish administration stumbled into a constitutional crisis on supply. The 1688 Revolution in England had enhanced the role of the Westminster parliament and the Commons had become central to the raising and authorisation of finance for William III's wars. These changes were known in Ireland, not just to Protestants who had gone into exile in England after 1689 but through personal political links with English politicians and also through print.³¹⁷ In addition, the Irish parliament that James II had called in 1689 had pressed for the repeal of Poynings' Law. After 1692 repeal of Poynings' Law may not have been practical but the 1689 discussions exposed a vulnerability of the pretence that the Irish parliament was autonomous. Finally, the government, understandably but naïvely, expected a parliament of Protestants to be grateful and generous for saving their lands and positions. Like others in such positions, the government by highlighting their inferior position and dependence provoked the opposite.

As a curtain raiser to the dispute on 'sole right' the House appointed a committee on 11 October 1692 to consider 'how the Committee of Grievances may come at records, accounts and papers in

³¹⁶ Neil Johnston, *State Formation in Seventeenth-century Ireland: the Restoration financial settlement, 1660-62, Parliaments, Estates and Representation*, vol. 36 (Nov 2016), pp.115-37

³¹⁷ See pp.59ff above.

the hands of any [of] their Majesties' officers of the Revenue, and others'.³¹⁸ On 14 October it reported citing the following precedents: 17 April and 30 May 1662 Irish House of Commons; 8 and 11 October 1690 English House of Commons; and 8 and 24 October 1692 English House of Commons.³¹⁹ The committee concluded on the basis of the precedents, predictably, that the House could have the records; the House addressed the lord lieutenant for a direction to the produce papers, which were supplied. Of significance was, first, that the Irish precedent was far from conclusive and, second, that there were more relevant English precedents but from before English *Votes* were printed, that is before 1689.³²⁰ The Irish House therefore had access to printed English *Votes* and was still at this stage prepared to use precedents from England, and the lord lieutenant accepted the force of the case. This skirmish over, the Commons then rejected the supply bill on 27 October 1692 and resolved:

That it was, and is, the sole and undoubted right of the Commons to prepare heads of bills for raising money [and] to prepare and resolve the ways and means of raising money.³²¹

In other words, supply legislation had to start in the Commons, not in the privy councils. In this case the issue was much bigger than access to papers and there was no searching or appeal to precedents in the Journals, which until then was a method of operation of the parliament.³²² James Kelly considers that the claim that sole right went back to the 1660s was an affectation.³²³ There had been some Irish precedents in line with the claims underlying 'sole right'. The most relevant was from July 1662 when the Commons, rejecting an attempt by the Lords to alter the basis for raising £30,000 to be paid to Lord Lieutenant the duke of Ormond, 'resolved, declared and asserted ... that the proposals of Ways and Means of levying all monies to be raised in this kingdom, is the ancient and undoubted right of this House only'.³²⁴ The precedent which, however,

³¹⁸ *CJI*(II), p.15; nomenclature varied between 'of Grievance' and 'for Grievances'; other than in direct quotations the latter has been preferred.

³¹⁹ *CJI*(II), p.16

³²⁰ For example, *CJE*(VIII), p.623 (31 Oct 1665)

³²¹ *CJI*(II), p.28

³²² *CJI*(II), pp.12, 14-16, 19-20

³²³ Kelly, *Poynings' Law*, pp.61-63

³²⁴ *CJI*(I), p.548; 26 July 1662 the Commons set out in detail their rights and privileges on 'the manner, ways and means of the levying of any sum of money whatsoever' in which the Commons asserted that it had the exclusive right 'of proposing the manner of levying' the grant and that the procedurally correct response from the Lords right was to agree or disagree not to alter the Commons proposals or respond at that stage with an alternative proposal. The Commons also made the point to the Lords that they were following the Westminster Commons, 'whose example, ... they did follow in this way of raising money' ((I), p.550).

appears to have animated the House—as historians have pointed out³²⁵—came from Westminster, when on 3 July 1678 the Commons had resolved that the granting of supplies was in its 'the sole gift'. In general terms the Irish House may have been aware of the 1678 claim, and the principle underlying it, but the wording used in the Irish resolution is not an exact copy. While details of *Votes* were circulated in manuscript and with the crises of the late 1670s and early 1680s pamphlets made some proceedings available in print, they were only regularly and systematically published from 1689.³²⁶ This may explain why the 1678 wording is not cited and the reason earlier English precedents are not used.³²⁷ Alternatively the use of *right* rather than *gift* represented an updating of the claim clearly echoing the *rights* claimed by the Westminster parliament in the 1689 Bill of Rights. In addition, the 1678 dispute had been between the Commons and the Lords, not the Commons and monarch and it may have been judged best to adhere to the key issue—the preponderance of the Commons in initiating supply—without inviting scrutiny into precedents. The 'sole and undoubted right' claim in terms of exclusively of Irish parliamentary history and precedent was at best arguable, not unanswerable. It was the replication and development of an English procedure dressed up as an 'undoubted right' that carried the force. During the 1690s a compromise was worked out by which the government conceded the substance of the claim to the Commons in return for regular, time-limited supply.

In contrast to the 1705 prohibition on resignation by MPs, money mattered and the procedures of the Dublin Commons adapted to Irish circumstances and the Irish supply processes had a greater knock-on effect of the operation of the Irish parliament. The consequence, as in England, was that the supply process and the authorisation of taxes became the pillar on which the eighteenth-century Irish parliamentary edifice rested.

³²⁵ For example, McGrath, *Irish Constitution*, p.86 thanks James McGuire for directing his attention to the 1678 resolution and see J.I. McGuire, 'The Irish Parliament of 1692' in T. Bartlett and D.W. Hayton (eds.), *Penal Era and Golden Age: essays in Irish history 1690–1800* (Belfast, 1979), pp.1-31.

³²⁶ Jason Peacey, 'The Print Culture of Parliament', 1600–1800, *Parliamentary History*, vol. 26, part 1 (2007), pp.4-5; Mark Knights, 'Parliament, Print and Corruption in Later Stuart Britain', *Parliamentary History*, vol. 26, part 1 (2007), p.50

³²⁷ For example, *CJE*(IX), p.239, 244 (20–22 Apl 1671) 'the Commons communicated to the Lords, as their Resolution, that there is a fundamental right in that House alone, in Bills of Rates and impositions on merchandize, as to the matter, the measure, and the time. And, though their Lordships had neither reason nor precedent offered by the Commons, to back that resolution; but were told, That this was a right so fundamentally settled in the Commons, that they could not give reasons for it; for that would be a weakening of the Commons right and privilege' and 'That the thanks of the House be returned to Mr. Attorney General, for his great pains and care in preparing and drawing up the reasons, delivered to the Lords, in answer to their reasons, which was by him performed to the great satisfaction of this House, in vindication of their privilege, and just and undoubted right of the Commons of England'.

The silence of the Irish House in its 'public' use of Westminster precedents and procedures contrasted with the position that was acknowledged 'privately'. Although accounts of debates in Commons are rare, there appears to have been no reticence about making comparisons with England when MPs advanced arguments. In the debates on the process for the impeachment of Lord Chancellor Porter the Commons examined the procedures used to impeach Lord Chancellor Clarendon in England.³²⁸ During debates in 1711 on the tillage bill and whether the Irish Privy Council should have power to ban exports of corn Sir John Perceval recorded that the language echoed debates at Westminster with the Irish Commons seeing itself as the 'the grand inquest of the nation'.³²⁹ He noted that reference was made to the experience in England when the crown had proposed legislation for restraining export of corn and it followed that 'the Crown owned itself to have no prerogative in this case'.³³⁰ In other words the boundary of the royal prerogative had to be the same in both kingdoms. To do otherwise and to have relied exclusively on Irish precedents on the exercise of the prerogative would have taken the governance of Ireland back to the days of Charles I and Strafford.

The 1692 parliament represents a high water mark in searching precedents, which fell away quickly. There was no reference to a precedent from Westminster in the Irish Journals after the 1690s. Second and partly as a result, the Irish House had a much narrower corpus to draw on. The contrast with Westminster is marked. For example, in May 1690 the English Journals record investigations into precedents on the 'Method of freeing their Members under arrests' that were not only the result of a search of parliamentary records but also judicial records going back to the reign of Henry VI with the precedents set out in detail.³³¹ The range of topics covered by precedent at Westminster was much greater than recorded for Dublin, running from privilege to what censures had been inflicted on officers for making false returns of MPs.³³² Not only did Westminster have a storehouse of precedents to draw on but also explicit reversion to precedent was part of its make-up and method of operation. For the Irish House to do the same it would have had to draw on Westminster's precedents. But, third, with the rise of *patriotic* sensibilities, explicit citation and

³²⁸ *BL, Add. 28,879 ff.190-91* (Richard Warburton to John Ellis, 10 Oct 1695)

³²⁹ *Perceval Diaries*, pp.111-13, 116, 126

³³⁰ *BL, Add. 47,087 ff.10-11* (22 Oct 1711)

³³¹ *CJE(X)*, pp.401-05

³³² See, for example, in 1689 and 1690, *CJE(X)*, pp.102, 273, 329, 356, 372, 423.

application of English precedents became problematic as their use could convey the subordination of the Irish House to Westminster. Instead, the Irish House used bald assertions of its 'undoubted rights' and the 'constitution of parliament' or promulgate changes by standing order.³³³ Fourth, the cutting edge of constitutional developments was in London and, to harness the changes which enhanced the position of the Commons, the Irish House had to import its changes. Fifth, one of the most fertile fields for citing and developing precedents at Westminster was conflicts between the two Houses and between the Commons and the courts. Precedents were an exchangeable currency for these bodies and each could give as good as it received. In Ireland, while there were some skirmishes with the House of Lords and also with Convocation, the main battle lines were between the Commons and the Privy Council and between the Irish and Westminster parliaments and government in Whitehall. Neither, especially the latter, were prepared to entertain claims resting on precedents derived from the Irish parliament or indeed Westminster precedents explicitly claimed and applied in Dublin. Instead, what mattered were political realities, though once a method of operation and working together emerging in the 1690s and solidified during the reign of Anne, the forces giving buoyancy and stability to that reality included an attachment to established methods and resistance to innovation.

Reliance on precedence, a characteristic of an ancien-régime legislature was displaced by personal, political and institutional bonds between Ireland and England. Both Irish Members and House staff had access to the operational methods of the English parliament. The politics of Ireland and England were broadly in step: the battle between political parties to 1714 then followed by the supremacy of the Whigs. To those sitting in the Irish Commons the constitution of Ireland had four pillars which resembled England's: the common law; the established church; an ancient parliament; and the royal prerogative. In addition, in Ireland Poynings' Law functioned as a quasi prerogative power tightening the link. Perceval summed up the position: 'By our constitution we cannot alter a letter in any bill that we sent over and is returned from the [Privy] Council ... in England whatever amendments they think fit there to make'.³³⁴ In addition, continuity in Ireland had

³³³ These concepts carried with them a claim to the main features of the Revolution: a Bill of Rights, Mutiny Act, Triennial Act, etc. But as Tim Harris points out in *Revolution: The Great Crisis of the British Monarchy, 1685–1720* (London, 2006), it took more than two decades for the main features of the settlement in England to become clear and the lessons from application of the changes to the Scottish Parliament had been to encourage its independence.

³³⁴ *BL, Add. 47,088 f.14* (3 Oct 1715); the Poynings' Law mechanism had other subsidiary but equally rigid rules (because of their symbolic significance)—for example, writs for calling a parliament could not go out until three

been fractured in the sixteenth and seventeenth centuries and, while the institution of parliament survived, its purpose and methods of operation did not have deep roots. How Westminster functioned after 1689 guided, tentatively at first, both the Irish House's practices and how it saw itself. The regular sessions from 1703 saw a development of methods of operation to ensure the Commons operated effectively. But they took time to permeate.

Direct comparisons or comments on the differences between the Commons at Westminster and Dublin are rare. This may be because contemporaries with experience of both noticed few differences. One of the few comments comes from an Englishman, Lord Chancellor Methuen, writing to London on 12 August 1697:

It is impossible for me to explain to you the difficulty I have to keep things in good order not now from the faction ... but from the ignorance of business in most men and an impertinent humour of imitating the parliament in England in all things how improper soever.³³⁵

At the start of the 1703 parliament, commenting on the arguments deployed and tone of the debate on Francis Annesley's criticism of the Protestants of Ireland,³³⁶ Southwell touched on a possible motivation for this behaviour when describing the speeches made in the Commons 'ran upon the aspersions on the country and the ill consequences it had by misrepresenting us in England as persons not fit to be trusted in juries, or other execution of that power which afterwards came here'.³³⁷ A sense of inferiority was not universal. On 30 October 1703 Sir John Perceval explained how he and other new entrants to the Irish parliament spent an evening revelling in their new roles as MPs:

We [are] to sit and are so used to parliamentary language that there must be a set speech for every toast we drink. When we meet at a tavern ... I move for a glass of wine, I second that worthy Member that drank last, put the question shall we stay another bottle, noes-ayes—the ayes have it. Then after a hot supper and a debate of 5 hours, one moves that we adjourn ... another [says], 'tis the opinion of the Committee says a third that we acquaint the House they send up the bill. Up rises a fourth and makes a new motion ... at which all the Members rise and declare no new motion ought to be made after 12 o'clock. And so we adjourn till 8 o'clock.

bills were approved and arrived from London (*SP, Ireland King's Letter Book 1*, p.343 (*CSPD: William and Mary, 1691-2—25 Aug 1692*)).

³³⁵ *SP*, 63–359(stamped 127) (to Vernon)

³³⁶ See pp.104ff above.

³³⁷ *SP*, 63–363 f.74(stamped 242) (Southwell to [Secretary of State Nottingham], 2 Oct 1703); of chief secretaries and senior officials in this period Southwell—from his preserved papers—appears to have been the most interested in wider arguments about the economy, the constitution and patriotic sentiment (*Egerton* 917 ff.151-53, *BL*, MS 38,155 ff.21,23,51,75,81,83). That said, the chief secretaries' and senior officials' correspondence has little on public sentiment outside the House directly influencing conduct of business within.

This parliament has spoiled all intrigues with the ladies for it has given us a grave air of 60 years, and introduced so new a manner of speech and addressing that they think us all mad.³³⁸

The behaviour of Perceval and his drinking companions shows that they saw themselves as belonging to an exclusive institution with its distinctive procedures and practices and which—as Pasi Ihalainen and Kari Palonen looking across the legislatures at the time note—manifested in the formation of a distinct parliamentary vocabulary, related to both the procedural technicalities and the principles of parliamentary deliberation and representation.³³⁹ That manifestation appears to be largely British and, more specifically, grounded at Westminster. There is little evidence that the Irish House struck out on its own with, for example, as noted by Ihalainen and Palonen, as in Britain and Sweden its codification of parliamentary procedure, although the use of committee facilitated specialisation and efficiency.³⁴⁰ It is difficult to see any difference between the behaviour and use of language of the group in 1703 and how men in Perceval's position in London would have behaved. The attitudes and culture came naturally to the participants. In addition to their backgrounds these young *gentlemen* had a training which made entry into either parliament easier. As Sir Robert Southwell advised Perceval in 1702 when preparing for a public career:

You cannot avoid getting so much of the law as will make you a justice of the peace, and of such other knowledge as is needful to serve your country in parliament, for these two things will come without seeking.³⁴¹

While Perceval was at the upper end of the spectrum of wealth, connection and links with England, he was not atypical as evidence of the ease with which he participated in the political establishments of England and Ireland.

3.6 Position and role of monarch and lord lieutenant

Jonathan Swift took a critical view of the speeches from the throne to the Irish parliament:

Nothing hath humbled me so much, or shewn a greater disposition to a *contemptuous* treatment of *Ireland* in some *Ministers*, than that high style of several speeches from the *Throne*, delivered, as usual, after the *Royal Assent*, in ... the two last *Reigns*. Such high exaggerations of the prodigious *condescensions* in the prince, to pass *those good laws*, would have but an odd sound at *Westminster* ... After a speech ... delivered by my [Lord Wharton], ... he desired ... *my opinion of it*. My answer was, That *his Excellency had very honestly forfeited his head on account of one paragraph; wherein he asserted by plain*

³³⁸ *BL, Add. 47,025 f.64* (Sir John Perceval to Arthur Hill)

³³⁹ Ihalainen and Palonen, 'Parliamentary Sources', p.21

³⁴⁰ Ihalainen and Palonen, 'Parliamentary Sources', p.25

³⁴¹ *BL, Add. 47,025 f.69* (Sir Robert Southwell to Sir John Perceval)

*consequence, a dispensing power in the Queen. His Lordship owned it was true, but swore the words were put into his mouth by direct orders from Court. From whence it is clear, that some Ministries in those times, were apt, from their high elevation, to look down upon this kingdom as if it had been one of their Colonies of Outcasts in America.*³⁴²

Swift demonstrates that the speech carried significant political meaning beyond a narrow reading of the content, in the terms of the 'continuities and changes in the official formulations of the political role of the people' and that it showed the 'constitutional relationship between the monarch, the ministry, parliament and the people'.³⁴³

The Irish parliament was in the position of a parliament in a kingdom without a resident monarch. The British and Irish concept of a functioning parliament required Commons, Lords and monarch. But no king of Ireland set foot the country after 1690 (until 1821). Swift's account suggests that the absence of the monarch could be manipulated to the advantage of the government in London. In this instance ministers could treat Ireland as constitutionally pre-Revolution with some of the monarch's powers—by then considered obsolete even unlawful in England—claimed and exercisable in Ireland by ministers. One reason they could was because across the Protestant political spectrum—from high Tory through Whig to ardent Patriot—all were locked into a quasi-religious relationship with a remote and ideal kingship. This was made easier after 1702 when William III died as, in Julian Hoppit's words, he 'was easier to love as an idea than as a man'.³⁴⁴ The gap in reality was filled by a largely absentee lord lieutenant, whose functions, when he arrived in pomp to reside in Ireland between 1714 and the 1760s, were primarily parliamentary. But as Swift suggested the lord lieutenant was a stand-in (over-) playing the role. While he carried out royal functions such as opening parliament³⁴⁵ and making speeches from the throne and giving royal assent, he was not comprehensively *in loco reginae aut regis*. There were both theoretical and practical dichotomies. First, not only were the monarchs absentees, but from Anne they took little more than passing interest in Ireland. The Irish political elite could therefore attach their ideals not only to deceased kings—such as William III, 'the deliverer'—but also to live monarchs untroubled by the inconvenient shortcomings of the actuality. This allowed the use of the

³⁴² Swift, *Irish Manufacture*, pp.12-13

³⁴³ Ihalainen and Palonen, 'Parliamentary Sources', pp.28-29

³⁴⁴ Hoppit, *Land*, p.135

³⁴⁵ *SP*, 63–363, f.62(stamped 274) (21 Sep 1703) for an account of the opening of the 1703 parliament

ceremonial rituals of parliament copied directly from Westminster³⁴⁶ to exaggerate both Ireland's status as a kingdom and a defining and excluding deference to the idea of its Protestant monarch. There was also a clear advantage for England in keeping the monarch aloof. As Methuen wrote to London when drafting the speech from the throne in 1697:

I have received ... the remarks of the lords justices of England, which I find generally very just, and have accordingly altered the speech in every place, and am returning it so altered ... I had it in my thoughts that it was for a parliament in Ireland, but considered that it was to be spoken by fellow subjects in their own name and not the King's, which might lead me into the mistake of using some expressions to please the parliament.³⁴⁷

In other words, it was a useful device for articulating English interests and suzerainty.

The political situation in which lords lieutenant operated changed from the 1690s when their political authority shifted from having the confidence of the monarch to the ministers in London, to which Irish politicians had greater links than their predecessors in the seventeenth century. That said, when commenting on the prospects for the new parliament elected on the accession of George II, Coghill, conscientious and deferential public servant, imagined the new monarch as having a direct relationship with the Irish parliament:

the welfare of this kingdom will much depend on our behaviour this session for if we make such impressions on him ... by our conduct as may induce him to think well of us, we may have just reason to expect his favour and protection ... whereas if we be peevish and ill-natured, and obstruct the business of the session with unreasonable disputes, His Majesty may think us an obstinate perverse people, and fitter to be governed by severe methods.³⁴⁸

Lords lieutenant were regarded as having two personas: the public and the private.³⁴⁹ The latter comprised personal qualities, intelligence and interpersonal, social skills, which impacted on the management of business. Lord Lieutenant Sydney naïvely and prematurely told Secretary of State Nottingham on 6 October 1692 before the session opened that 'there is great reason to hope that this parliament will answer the ends for which Their Majesties have been pleased to call it, and establish this country upon a firm and lasting English and Protestant interest, whereunto I shall

³⁴⁶ The recorded arrivals of lord lieutenants for parliamentary sessions were subject of quasi-royal rituals and state openings, as recorded in the *LJI*, were complete with swords of state and caps of maintenance, following the English ritual closely; and the lord lieutenant wore robes that James II had used to open the 1689 Parliament.

³⁴⁷ *SP*, 63–359 no.23(stamped 62) (To Vernon, 12 July 1697)

³⁴⁸ *Coghill Letters*, no.26 (To Edward Southwell, 21 Sep 1727)

³⁴⁹ *BL*, *Add.* 47,031 f.93 (1 Feb 1725/6), Philip Perceval commented to Lord Perceval on Carteret that people were satisfied with his private character but were less so with his public character, which was seen as aloof.

think myself happy if I can any ways contribute'.³⁵⁰ Within two weeks, however, he wrote of the Commons:

They have begun like a company of madmen, for they don't know themselves what they would have. Whether they will come into better temper or no, I cannot tell, but at present they talk of freeing themselves from the yoke of England, of taking away Poynings' law, of making an address to have a habeas corpus bill, and twenty other extravagant discourses have been amongst them. [All the problem] comes from four or five lawyers, most of them of the King's counsel, they being the only talkers.³⁵¹

The outburst showed not only Sydney's political clumsiness and incomprehension³⁵² with his recourse to conspiracies³⁵³ to explain his difficulties but also the narrowness of his expectations for the operation of the parliament and the constitution of Ireland. His more effective successor, lord Capel, co-opted rather than attacked and recognised in December 1695 that the 'influence and power of the lawyers in the kingdom is very great, especially in parliament, and ... without their concurrence ... I could not have asserted His Majesty's right as to the beginning of money bills'.³⁵⁴ The lord lieutenant's role in explaining and cajoling Members to support the administration was a feature throughout this period as Lord Lieutenant Bolton explained in 1719: 'I had between 50 and 60 Members with me last night and they have promised to go into the supply today'.³⁵⁵

As the monarch's direct political role retreated, formal communication through the address expanded after 1692. With a few adaptations it followed Westminster procedure.³⁵⁶ In the 1661 parliament addresses had been infrequent. There were only two to Charles II: the first was a joint address with the Lords to congratulate him on his marriage to 'a daughter of Portugal'³⁵⁷ and the second to ask that no provisos be added to the bill of land settlement. The latter was of such importance to parliamentarians they sent a delegation headed by the Speaker to London. The process was cumbersome, disruptive of parliamentary business and of questionable value.³⁵⁸ After

³⁵⁰ SP, 63–354 f.166(stamped 167)

³⁵¹ SP, 63–354 f.178(stamped 178) (To Nottingham, 17 Oct 1692)

³⁵² In a subsequent letter dated 22 Oct 1692 to Nottingham he described the Irish Commons as composed of 'the strangest creatures that ever yet met together' (SP, 63–354 f.183(stamped 183) (CSPD: *William and Mary*, 1695 *Addenda 1689–1695*—22 Oct 1692) .

³⁵³ SP, 63–354(stamped 167 and 178)

³⁵⁴ SP, 63–357(stamped 163) (To Secretary of State Shrewsbury, 17 Dec 1695)

³⁵⁵ SP, 63–377(stamped 103) (To [Secretary of State Craggs], Jul 1719)

³⁵⁶ See Appendix 6.14.1.

³⁵⁷ *CJI*(I), pp.394–98, 401, 411, 413–14, 427

³⁵⁸ *CJI*(I), p.407; when Speaker Mervyn departed a substitute was elected during his absence, and the delegation was supported by a clerk (p.419); much time and effort was put into drawing up instructions (pp.428, 430–31, 433,

1692 sending a delegation to London was only mooted as pressure on the government to withdraw Wood's halfpence peaked.³⁵⁹ From the 1690s there was no procedural attempt to bypass the lord lieutenant and all addresses to the monarch went via him. (As power seeped from monarch to ministers after the 1690s there was probably little point in expending the effort in mounting an expedition and the lord lieutenant was part of the ministry in power.) Although addresses were presented to the lord lieutenant for transmission to London, individual MPs might still have a role as the messenger carrying the address. On 15 July 1711 Ormond informed Secretary of State the earl of Dartmouth that 'Mr O'Brien a gentleman of considerable fortune in this country ... was Chairman of the Address to Her Majesty; and being desirous to go over and pay his duty to Her Majesty. He carries with him the said Address'.³⁶⁰ There is no evidence that such messengers had any political role but this case offered an opportunity to consort with the court. In 1703 in response to its address to Anne on her accession the Commons received an answer.³⁶¹ Chief Secretary Southwell reported: 'The answer was accordingly delivered to them at the Castle, and has had an extraordinary good effect, as being the first time they ever had a Royal message or answer directly to an Address from this Kingdom'.³⁶² The Commons now had a direct and reciprocal line of communication with the monarch.

The 1690s had seen more frequent addresses than in the 1660s. The 1692 parliament continued the tradition of the congratulatory address. The Commons agreed a joint address with the Lords, thanking William and Mary for the deliverance of the nation, and the Journals record a process of three readings and agreeing to Lords amendments.³⁶³ The bicameral approach did not, however, continue. First, from 1695 many addresses concerned money, which was seen as the preserve of the Commons. Second, Poynings' Law did not foster co-operation between the Houses; specifically the Houses did not develop expertise in working together to hammer out compromise texts; rather there was a rivalry around exercise of prerogatives and a difference in political outlook

438, 440-44, 449, 473-74), providing financial support (pp.424-26, 467, 475) and communicating with the delegation (pp.451, 480-81).

³⁵⁹ *SP*, 63-386(stamped 5) (Carteret to Secretary of State Newcastle, 6 Aug 1725)

³⁶⁰ *SP*, 63-367(stamped 84); in the event O'Brien was not able to travel because of an accident and Ormond requested Dartmouth to 'present what he hast sent your lordship', *SP*, 63-367(stamped 102) (Southwell, 20 July 1711).

³⁶¹ *CJI*(II), pp.320, 322, 340

³⁶² *SP*, 63-363 no.101(stamped 178) (To Nottingham, 21 Oct 1703)

³⁶³ *CJI*(II), pp.26-27

with the Lords having a Tory flavour to the Whiggish Commons.³⁶⁴ Third, Westminster itself in the 1690s discouraged Irish bicameralism.³⁶⁵ Fourth, once the arrangements were settled and working satisfactorily there was little appetite for change.³⁶⁶

The address retained the quality of a justificatory petition, albeit of an exceptional type, from a supplicant to a superior (see below)—an attitude that could not have been used with an English minister. The finalised addresses were set out in the published *Votes* as were the answers. In September 1703, the Commons in the backwash in England from Molyneux's Case, went beyond the congratulatory to refute 'our enemies ... groundless and malicious calumnies [that] we thought ourselves, or desires to be, independent of the crown of England'. The Commons declared and acknowledged that

the kingdom of Ireland is annexed and united to the Imperial Crown of England; and by the laws and statutes of this kingdom is declared to be justly and rightfully depending upon, and belonging, and forever united to the same, and it never entered into our thoughts to wish the contrary.³⁶⁷

It was careful not to acknowledge any subordination beyond that to the crown. Addresses from 1703 became a device to circumvent the political realities. By addressing the monarch the Commons had a public way to reach the English ministers without acknowledging the subordinate position of the kingdom.³⁶⁸ Three issues recur in these addresses to the monarch (effectively, to the London government): the poor state of the country and its economy;³⁶⁹ the need to keep the military establishment paid, housed and well armed;³⁷⁰ and fears that outlawries would be reversed.³⁷¹

³⁶⁴ See p.154 below.

³⁶⁵ See p.197 below.

³⁶⁶ Kelly, *Poyning's Law*, p.200, notes the initiatives by the House of Lords that heads should be considered by both Houses. He considers that the failure to agree arrangements reflected the prevailing disinclination to favour constitutional innovation.

³⁶⁷ *CJ*(II), p.322

³⁶⁸ The Dublin Commons side-stepped requesting action by the Westminster Commons by inviting the monarch to intercede. On 23 Nov 1703 the Commons asked Anne to 'interpose with the Parliament of England, at their next session, that this kingdom may have leave to export their manufacture of linen ... into the western plantations' (*CJ*(II), pp.361, 373, 377, 384-86; and see also pp.616 and 668).

³⁶⁹ For example, *CJ*(II), p.333, 341-43; (III), pp.71-72, 171

³⁷⁰ *CJ*(II), pp.366, 660; (III), p.62

³⁷¹ *CJ*(II), p.609; (III), pp.169, 451; opposition to the reversal of outlawries was not confined to backwoodsmen in the Commons but permeated the administration; Coghill in preparation for 1729 session was 'sorry to find that every session of [the British] Parliament, some bill or other is constantly brought in to the prejudice of the Protestant interest in this kingdom, it looks as if the policy of England was to keep this a popish country' (*Coghill Letters*, nos. 47 (To Edward Southwell, 11 Mar 1728/9) and 49 (To Lord Perceval, 4 Apr 1729); also Carteret to Newcastle (*SP*, 63-390(stamped 8-10), [Feb?] 1727/8).

Exchanges between the Commons and the lord lieutenant himself became more formal during the seventeenth century. In the 1613–14 session the Commons had sent the administration a 'wish-list' list of 24 legislative and executive measures. The responses to the items were set out as 'answers' in the Journal, some of which were in the first person from the lord deputy—for example, on the request for an act against dilapidations and to restrain alienations by ecclesiastical persons of their possessions, the answer was: 'very necessary: but I fear the steed is already stolen in most parts'.³⁷² By the time of Charles II the question and answer had disappeared. In February 1662/3 Ormond grandly told the Commons 'that he could take no notice of a message unless it had come to him as it ought ... in writing'.³⁷³ As Table 14 indicates, from 1692 the majority of the addresses to the lord lieutenant focussed predominately on administrative matters. In the 1690s many were seeking fulfilment of past obligations³⁷⁴ and help to those affected by the war, both individuals³⁷⁵ and groups.³⁷⁶ When the 1703 parliament met, the number of addresses to Ormond reduced and the perspective encompassed the future as well as the past. For example, in November 1703 the Commons sought assistance (i) for Captain Neville to survey for a canal between Newry and Lough Neagh and (ii) to make officials keep proper office hours.³⁷⁷

³⁷² *CJI(I)*, p.33

³⁷³ *CJI(I)*, p.633

³⁷⁴ For example. Speaker Mervyn's family's initial unsuccessful attempts to recover his expenses (*CJI(II)*, pp.80-81, 98, 100) before a tack to the supply bill (see p.50 above).

³⁷⁵ For example, *CJI(II)*, pp.103 (Margaret Maxwell, whose husband was executed by James II's government), 121 (Dr Leslie for services and suffering during the war)

³⁷⁶ For example, *CJI(II)*, pp.83 (inhabitants of Bandon), 136 and 199 (Protestant refugees), 141-42 (inhabitants of Londonderry)

³⁷⁷ *CJI(II)*, pp.390, 364

Session	Addresses to monarch	Addresses to lord lieutenant	Other addresses
1692	1	1	
1695–97	2	19	
1698–99	-	7	
1703–04	7	9 (1 to be passed to Anne)	
1705	3	3 (1 to be passed to Anne)	
1707	4	2	
1709	7	3	
1710	3	8 (3 to be passed to Anne)	
1711	5	6 (1 to be passed to Anne)	
1713	4	1	
1715–16	9	17	
1717	4	5	
1719	2	13	
1721–22	3	16 (1 to be passed to George I)	Speaker Conolly
1723–24	6	10	
1725–26	3	5	
1727–28	4	4	
1729–30	2	7	

Table 14 Addresses presented by House of Commons

The total number of addresses in the 1705 and 1707 sessions fell but picked up in 1709 after Lord Lieutenant Wharton became lord lieutenant. There seems to have been some uncertainty about which addresses should go to him and which to Anne. By 1715 a much clearer differentiation of which items of business went to which addressee emerged.

To the lord lieutenant	To the monarch
Bills, copies of	Economic and fiscal, major decisions (e.g. national bank, Wood's halfpence)
Clerical preferments (below bishop)	Military matters such as overall pay, significant movement of troops
Military contracts, inspections and building	National debt, overall management and level
Papers, returns and accounts, requests for	Outlawries, representations against removal of
Petitioners, support for	Industries, major support
Prosecutions	Removal of major office-holders
Supply matters	
Support for projects	

Table 15 Recipients of addresses (by content)

As routine business increased, two changes occurred. First, processes became standardised. In the 1690s there are several instances of addresses being conveyed to the lord lieutenant by a

single MP or groups of MPs who were not privy counsellors.³⁷⁸ That stopped. Second, the process of addressing the lord lieutenant was streamlined: the previous step requiring privy counsellors to seek an appointment to present the address was dropped; and by the end of the 1690s in several cases the House did not draw up a bespoke address but ordered that a committee's resolutions be treated as an address and taken directly by privy counsellors.³⁷⁹ Within ten years even the token reference to address had been jettisoned: the House ordered privy counsellors to attend the lord lieutenant with the resolutions supporting a petitioner and 'recommend [him] to his excellency's favour'.³⁸⁰ One reason for breaking away from the more formal address procedure may have been the development of the heads of bill process in the 1690s as it appears from the Journals that the heads were ordered to be presented to the lord lieutenant—via privy counsellors—without an address, to ensure that they were sent to England quickly. On occasion a more formal presentation of heads to the lord lieutenant gave the draft bill some protection against the Irish Privy Council. Ormond told Secretary of State Sir Charles Hedges in 1705 that a bill for regulating elections 'was presented to me by the whole House, for which reason only it is sent over. But I believe it will be thought too strict a regulation'.³⁸¹ Similarly, when an address was considered of political importance, it would be presented to the lord lieutenant by the House: on 10 August 1710 the House agreed, *nemine contradicente*, an address to lord lieutenant to request a proclamation to fine defacers of the statue of William III on College Green and the House itself presented it to the lord lieutenant.³⁸²

The lord lieutenant's first public task in parliament was the opening speech from the throne which set the tone and direction of the session. The draft of the speech was cleared in London, and in 1725 Lord Lieutenant Carteret read the speech in draft to MPs at the Castle before the session.³⁸³ As well as being entered in the Commons and Lords Journals the speech was printed

³⁷⁸ For example, by a single MP, though others could attend him (*CJI*(II), pp.138-39, for assistance for Protestant refugees; p.142, for assistance for the inhabitants of Enniskillen; and p.83, by MPs for Cork for assistance of the inhabitants of Bandon. These sought financial assistance; the route to resources was via London and in transmitting petitions the lord deputy made a recommendation. In the case of the 'Inniskilliners', Lord Deputy Capel told Shrewsbury that 'I am told they made good advantage by the war' and did not support their claim (*SP*, 63–357 f.78(stamped 167) (31 Dec 1695).

³⁷⁹ For example, *CJI*(II), pp.258, 268, 273 and 279 (Oct and Nov 1698)

³⁸⁰ *CJI*(II), p.512 (29 July 1707)

³⁸¹ *SP*, 63–365(stamped 172) (29 Mar 1705); the practice of the lord lieutenant writing in parallel with transmissions, to criticise a transmitted heads, was not unusual—see also Bergin, 'Irish Legislative Procedure', pp.134-35.

³⁸² *CJI*(II), pp.673–74

³⁸³ *Coghill Letters*, no.17 (To Edward Southwell, 9 Oct 1725)

separately.³⁸⁴ The published speech and address were the public face of parliament. Although set within a prescribed and reverent form, nuance and politics were not lost in the speech, address and response. (See page 168 for an example in 1719 of how carefully Chief Secretary Edward Webster had to tread when the speech from the throne promised some relief to Protestant Dissenters.)

From 1703, following Westminster practice, the Irish House produced an address of thanks for the speech from the throne to Ormond.³⁸⁵ In order not to leave the monarch out, who was, in theory at least, responsible for the content of the speech, the House produced two parallel addresses to the lord lieutenant and Anne. The address to the monarch following the earlier Irish practice of the 1690s focused on a significant recent event.³⁸⁶ In England the process had evolved of an address at the start of the session combining representations on a significant matter with thanks for the speech from the throne.³⁸⁷ By the reign of George I Irish addresses to the monarch drew on English practice of commenting on legislation as well as events such as the 1715 rebellion. The main elements, for example, of the 1729 address to George II paint a rosy, mythological picture of the relationship between Commons and monarch, which were:

- an idealised and harmonious picture of monarch and his loyal subjects in Ireland;
- the well-worn claim of providence's protection of the sacred person of the king;
- a bald assertion that the king had the 'constant care' of his loyal subjects in mind;
- a dubious claim the royal family was united and mutually supportive;
- measures the Commons approved of were singled out for praise and evidence of the king's goodness;
- the lord lieutenant was praised; and
- in return for 'many blessings' under his and George I's reign supply would be voted.³⁸⁸

³⁸⁴ For example, Ormond's at the opening of the 1711 session (*SP*, 63–367(stamped 80-81)); Ormond's prorogation speech 1711 (*SP*, 63–367(stamped 193)).

³⁸⁵ *CJ(II)*, p.317

³⁸⁶ 1703 Anne's accession (*CJ(II)*, pp.344-45)
 1704/5 Marlborough's victories (pp.425-26)
 1707 union with Scotland (p.494)
 1709 death of Anne's husband (pp.578-79)
 1710 success of arms and prospects for peace (pp.645-46)

³⁸⁷ *CJE(XIV)*, pp.8-9 (26 Oct 1702)

³⁸⁸ *CJ(III)*, p.581

The address sits well with the findings of Mark Knights in England that the address set out a constructed political identity; albeit idealised but under the hyperbole the address shows the outline the bonds of loyalty of a political construction that held those represented in the Commons to the state with the hard political reality of supply for protection.³⁸⁹

There was a closing speech. In the 1690s this was a fluid process. Sydney in 1692 tore into the Commons on his own initiative and his speech was printed separately.³⁹⁰ In 1710 Lord Lieutenant Wharton asked the government in London for instructions and said the speech 'shall be dispatched by tomorrow night's post ... But I do not see how it can be possible to keep the parliament together many days longer'.³⁹¹ Timing was a problem and, unless there was some pressing need for clearance from London, there was little point in making speech beyond expressing thanks and leaving the lord lieutenant to tailor it as necessary. This was the pattern after 1715.

The lord lieutenant may have exercised some royal functions but he was not the monarch in parliament. While in both London and Dublin no criticism of the *actual* monarch in parliament was permitted, during the reign of Anne when party rivalry was strong, in a debate in 1711 Ralph Gore stated that 'he should not be afraid of speaking his mind against the Privy Council nay, nor even against my lord lieutenant [Ormond] if occasion were in that place'. His comments did not raise the temperature and 'the debate went on with temper'.³⁹² While it is hardly conceivable that Gore himself, as pillar of the Whig administration, would have uttered the same words after 1715, the absence of evidence leaves it unclear whether such sentiments and such criticism persisted. What evidence there is points to a more nuanced and coded style of criticism, possibly made easier as the distance between Members and the lord lieutenant lengthened with the appointment of English aristocrats.

3.7 Relations with House of Lords

The 'official' relationship between the Commons and the Lords was circumspect and formalised in protocol. The procedures governing the relations between the Houses copied Westminster and the same characteristics and sensitivities can be seen with each House vigilant to preserve its

³⁸⁹ Knights, *Representation*, pp.44, 127, 152, 154

³⁹⁰ *CJ*(II), pp.35-36

³⁹¹ *SP*, 63–366 ff.230-32(stamped 11-12) (to [Dartmouth], 14 Aug 1710)

³⁹² *Perceval Diaries*, p.113

prerogatives or, in the case of Commons, reluctant to allow the Lords to turn their social superiority into parliamentary dominance. The prickly formality regularly required decisions to be made by the Commons and therefore resulted in entries in the Journals and recourse to precedents.³⁹³ The procedures examined in this section are:

- a) messages between the Houses;
- b) conferences; and
- c) privilege, especially conflicting privileges.

An exchange between the Commons and Lords illuminates the process and sensitivities. On 9 June 1705 the Commons took umbrage at a message from the Lords and instructed a select committee to prepare a message pointing out that the message—that the Lords had agreed to the engrossed money bill sent up by the Commons without any amendment—was not in the correct form:

And take notice, that the messengers did not, at the same time, deliver in at the Table of their House the money-bill, which they conceive ought to have been done; and therefore have not entered the said message on their Journal, nor taken other notice thereof, than by reminding your lordships of the omission.

Just as the Commons ordered the managers to set off, a message arrived from the Lords saying they had approved the bill but adding 'which bill being delivered in at the Table, with the message by the messengers'. The Commons cancelled the request for a conference.³⁹⁴ The incident shows that communication between the Houses operated on two levels. On the formal level, failure to follow the 'correct' procedure could be used to halt processes and be construed as an affront to the dignity of the House. Second, there was informal communication as the Houses shared a building. Rather than stand on their dignity the Lords back-tracked without the need of a conference. The exchange also shows the Commons insisting upon a procedural consequence of its 'sole right' claim. English practice from the late sixteenth century had been for the Speaker to present bills of supply for royal assent on the last day of the session.³⁹⁵ The procedure demonstrated the primacy of the Commons in supply. The pre-1705 entries in the Irish Journals are unclear that the Irish House followed English procedures and leave the impression that supply bills were treated as

³⁹³ See p.127 above.

³⁹⁴ *CJI(II)*, p.478

³⁹⁵ John Hatsell, *Precedents of Proceedings in the House of Commons*, 4 vols. (London, 1818) (Reprinted 1971), (III), pp.158-65; Bergin, 'Irish Legislative Procedure', pp.194-95 points out that the practice of sending bills for royal assent was not settled in the 1690s and the procedures only become clear from 1705.

other bills to be presented by the chancery clerks in the Lords.³⁹⁶ The Commons did not claim precedents but rather asserted what ought to have been done. This approach resembled that which the Commons adopted when it ended resignations by MPs.³⁹⁷ It was another instance of the House bringing its procedures in line with those of Westminster.

Formal communication between the Houses was by message. The table at Appendix 6.14.2 sets out the procedure when a message came from the Lords to the Commons requesting a conference, which was the mechanism by which Houses met face to face to transact business, to negotiate or resolve a dispute. The procedure had been used since at least the 1613 parliament³⁹⁸ and developed in the 1661 parliament, where there had been several rancorous disputes about processes³⁹⁹ and privilege.⁴⁰⁰ As the *higher* House the Lords claimed superiority which, as in England, it expected to be displayed through customs and ritual which demonstrated rank; especially contentious was whether the Commons Members could sit in the presence of the Lords.⁴⁰¹ The 1661 parliament had ended on a sour note. At a conference on 17 July 1666 the Lords walked out when MPs sat down and one exiting peer told the MPs that they 'had a mind all to be Lords' whereupon an MP answered: 'Why not; another rebellion may make some of us lords, as former rebellions did make some of your lordships' predecessors so'.⁴⁰² The procedures for conferences were next tested in 1695 when the Commons requested that six Members of the House of Lords give testimony to the Commons as it prepared articles of impeachment against Porter.⁴⁰³ The sharpness of the exchanges led the Commons to appoint a committee to examine precedents for procedures for conferences, and William Molyneux reported back in November 1695 that:

great inconveniences have happened to the public affairs of this nation, by the Commons insisting on the right of sitting covered at conferences with the Lords, an absolute rupture

³⁹⁶ *CJ(I)*, pp.220, 305

³⁹⁷ See p.130 above.

³⁹⁸ See *CJ(I)*, pp.21-22.

³⁹⁹ For example, *CJ(I)*, pp.520, 540-41

⁴⁰⁰ For example, *CJ(I)*, pp.492, 762ff

⁴⁰¹ *CJ(I)*, p.541 (10 July 1662) sets out the ceremony for meetings with the Lords when 'upon several precedents produced by the Speaker ... *ordered* that the Committee of this House should take their seats after the Committee of the Lords, and sit covered, if their Lordships so do, and not to proceed in any case their lordships should not assent thereunto; and to intimate the reason of their not proceeding, if it were necessary'; see also (I), pp.597, 715, 731, 752-72.

⁴⁰² *CJ(I)*, pp.752-53, 765-72

⁴⁰³ *CJ(II)*, pp.91, 103-08; see also pp.155ff below.

between the two Houses has ensued [in the 1660s and that for] avoiding the like mischiefs and inconveniencies the future, and that the great business of the nation may not have any time thereafter suffered by adhering to the manner sitting covered, the Commons ... do think it requisite to settle this matter, and the precedent therein to be observed thereafter.

Perhaps as a way of fastening the precedent, Molyneux examined English practice and reported without any qualification that 'in conferences with the Lords, [the Commons] do stand uncovered, we conceive it not necessary or convenient to insist upon more in this matter than the Commons of *England*. He added portentously a political necessity to the justification:

the two Houses of parliament are employed in settling this nation after a most unnatural rebellion, upon establishing a lasting Protestant foundation, and a rupture ... may prove at this time of the worst consequence, rather than hazard any such mischief, we think it requisite to decline what has formerly been insisted on, as a privilege of this House in conferences with the Lords, and to leave this as a memorial to future generations, by ordering it to be entered in its journals, as a precedent settled and agreed by this House.⁴⁰⁴

There the matter—based on the Westminster precedents—was left and disputes over the process of holding conferences receded.⁴⁰⁵

Without the need to resolve disagreements over legislation, conflicts over their privileges predominated. Operating like two sovereign entities, each House, in order to safeguard its privileges, insisted that its Members, and their servants, could only appear before the other with its permission.⁴⁰⁶ When in July 1707 the Lords requested that an MP appear at the bar, the Commons set up a select committee to examine the precedents.⁴⁰⁷ William Conolly reported that it had found a 1661 precedent for appearance. The House then sent a message that it would give leave for the MP to appear once 'they are informed by your Lordships, in what cause or matter he is to be examined'.⁴⁰⁸ It appears that the Commons' answer was designed to show that it had no objection in principle provided the Lords went through the necessary procedures. The Lords then sent a messenger who explained the reason. When the messenger withdrew, the MP said that he was willing to be examined in the Lords. The Commons then gave leave for him to appear.⁴⁰⁹ The

⁴⁰⁴ *CJ(II)*, p.118

⁴⁰⁵ The other option was an appeal to the administration. When the Houses reached an impasse over privilege in 1641 an appeal was made to Charles I (*CJ(I)*, p.252) and in 1666 to Ormond (pp.765-72). Neither appears to have produced a satisfactory outcome, and there is no evidence either approach was repeated. Such appeals gave the administration a means to crack the protective shell of privilege, which from the 1690s was inimical to the constitutional claims of the Commons and the constitutional norms at Westminster.

⁴⁰⁶ See for example, *CJ(II)*, pp.79, 269-70, 335, 402.

⁴⁰⁷ *CJ(II)*, p.497

⁴⁰⁸ *CJ(II)*, p.498

⁴⁰⁹ *CJ(II)*, pp.498-99

distinctiveness of the Houses' privileges was further entrenched in March 1704/5 when the Commons resolved that no Irish peer had the right to vote in an election for a Member of parliament.⁴¹⁰ The resolution was made following an election petition which unseated a sitting Member, where a peer may have voted, though his vote—as opposed to his influence—was not a determining factor.⁴¹¹ The wording of the resolution followed closely that of a resolution made by the English Commons in 1699.⁴¹² The Commons, perhaps wishing to avoid a confrontation with the peer or, more likely, following English practice⁴¹³ did not request a conference with the Lords as it regarded election matters as within its exclusive cognizance. This is a further instance in 1704/5 where the Commons was not only applying but also again bringing its procedures into line with Westminster.

Not all disputes about privilege were settled amicably. On 1 June 1709 the Lords sent a message to the Commons complaining that the Commons had violated its privileges by commencing action against two servants of a bishop.⁴¹⁴ A select committee chaired again by Conolly was set up and reported that the two were acting in a public capacity and were therefore outside the privilege of the House of Lords.⁴¹⁵ The Lords responded that it was for it to decide its privilege and that should be an end of the matter.⁴¹⁶ When the Commons came to consider how to respond it ordered the gallery door locked,⁴¹⁷ possibly to limit its deliberations leaking to the Lords. The Commons prepared a full reply which concluded that 'each House of Parliament is equally and only the judge of the privileges of their respective Houses, and whether the same be violated, or not; and that the same are not to be taken into consideration elsewhere'.⁴¹⁸ The Lords, unsurprisingly, rejected this view⁴¹⁹ and stalemate was reached. In the other direction, on 4 August 1711 the Commons was

⁴¹⁰ *CJI(II)*, pp.456

⁴¹¹ *CJI(II)*, pp.453-56; the case concerned a by-election for Carlingford; the main issue at stake was the creation of voters in breach of the borough's by-laws, to influence the result.

⁴¹² *CJE(XIII)*, p.64 (14 Dec 1699)

⁴¹³ Hatsell, *Precedents(II)*, p.72; Hatsell cites English cases from the first decade of the eighteenth century and observes that no conferences were sought because 'the subject of complaint, which was that of Peers interfering in the election of Members to serve in Parliament, has been always considered by the House of Commons as a matter in which their Privileges are materially concerned'.

⁴¹⁴ *CJI(II)*, p.596

⁴¹⁵ *CJI(II)*, pp.597-98

⁴¹⁶ *CJI(II)*, p.601

⁴¹⁷ *CJI(II)*, p.602

⁴¹⁸ *CJI(II)*, p.605

⁴¹⁹ *CJI(II)*, p.619

informed that the Lords, in an address to the queen had 'reflected on the honour' of the Commons, and a paper alleged to be a copy of the address was read out. The Commons took exception to the construction of the Lords that the commendation by the Commons of the Revolution was a reference to that of the Commonwealth in the 1640s rather than that of 1688.⁴²⁰ The Commons then appointed Ralph Gore and the attorney general to 'go immediately and inspect the Journals of the House of Lords' and compare the paper with the entry in the Journals. They went and 'demanded of the clerk attending in the office of the clerk' to see the Journals. The clerk said that the 'address is not yet actually entered in the Lords Journals' but showed them the original address, which, he said, was the warrant for entering it in the Journal. They compared the texts at the Table and reported back that they agreed exactly and presented a copy of the paper shown to them by the clerk, which was entered in the Commons Journal. As the Lords had already made its address to the lord lieutenant, the Commons followed with an address of its own criticising the Lords for 'highly infringing the rights, privileges and liberties of the Commons' and an address to the queen clarifying their focus on the *recent* 'happy revolution'⁴²¹ and their 'utmost abhorrence and detestation of all principles that have any tendency to any other revolution, or to weaken your majesty's undoubted and hereditary and parliamentary right'. To underline the importance of the address, it was presented by the Speaker to the lord lieutenant.⁴²² The dispute showed that the Commons had easy access to the other House's Journals and this is confirmed on other occasions.⁴²³

As the Porritts noted, in the early seventeenth century, when an Irish MP was elevated to the Lords, the Commons had a distinct Irish ritual, which was recorded in 1614 when Walter Butler succeeded to the earldom of Ormond and it self-consciously revived in 1662 when Thomas Butler became earl of Ossory. The MP acquainted the Commons that he had received the king's writ to be made a peer and, after some pleasantries on his 'happiness of sitting as a commoner' the whole House accompanied him to the bar of the House of Lords.⁴²⁴ The procedure is not recorded

⁴²⁰ The episode underlines the points Knights makes in *Representation*, pp 152-53, that language in addresses and petitions has to be deconstructed and was not as anodyne as it appears.

⁴²¹ *CJI*(II), pp.710-11

⁴²² *CJI*(II), pp.714-15; for another case in which the Commons inspected the Lords Journals for precedents of the Lords having permission to appear before the Commons and its committees see (II), p.731.

⁴²³ *CJI*(II), pp.98, 550, 555ff, 710, 730-31

⁴²⁴ *CJI*(I), p.558

after the 1660s. One reason may have been that it was unknown at Westminster and so would have lacked a stimulus for revival.

3.8 Impeachment

The process of impeachment emerged in the English House of Commons late in the reign of James I.⁴²⁵ It was first used in Ireland in the turbulent 1640s when the Commons took revenge on Strafford's administration⁴²⁶ and at that time it was also used regularly at Westminster.⁴²⁷ It fell out of use in England until 1666 and this dormancy was reflected in Ireland as the process was unknown in the 1661 parliament. In England the procedure was used regularly from 1666 and again from 1689.⁴²⁸ It made a dramatic return in Ireland in 1695 when the Commons started impeachment of Lord Chancellor Porter. The impeachment process gave each House distinct responsibilities: the Commons to prepare the case for the prosecution and the Lords to judge. The Irish House followed English procedures adopted against Porter himself at Westminster in 1693⁴²⁹ with detailed consideration of the case taking place on the floor of the House.⁴³⁰ On 30 September 1695 Colonel Ponsonby presented to the House 'Articles of High Crimes and Misdemeanours' and 'took upon him to prove the ... Articles'. The House received them and had them read. Debate ensued and, although a motion 'that the Articles be now read a second time' was negatived, the House resolved to continue the debate on the following day.⁴³¹ Over the next two weeks the supporters of impeachment tried to prove the evidence in the articles but failed to bring the debate to a close.⁴³² The House resolved that the testimony be taken on oath; that witnesses be sworn before two judges in the Speaker's chamber before appearing; that notes of the testimony taken by

⁴²⁵ Hatsell, *Precedents(IV)*, p.72, 104ff

⁴²⁶ *CJI(I)*, pp.185ff

⁴²⁷ Hatsell, *Precedents(IV)*, pp.104-05 lists examples.

⁴²⁸ For example, *CJE(X)*, p.198

⁴²⁹ Porter successfully fought off the Westminster House in Dec 1693–Jan 1693/4; *HoP(1690)*, biography for Porter. Westminster procedures see: *CJE(XI)*, pp.33-34 (presentation of articles); p.40 (witnesses examined at the bar, written evidence received and papers ordered to be presented); p.43 (committee appointed to take evidence from witness too ill to attend House); p.45 (committee reports); p.73 (on questions put).

⁴³⁰ Commons Procedure—as recorded by Hatsell for post-1666 cases in England—was:

- an allegation that a senior official had committed a serious crime was made on motion or petition;
- the allegation was referred to a select committee for consideration and to report;
- if the allegation justified action, a committee was appointed to draw up articles of impeachment;
- the articles were read three times;
- evidence was taken; and
- if agreed, the articles were engrossed and sent to the Lords (Hatsell, *Precedents(IV)*, pp.120ff).

⁴³¹ *CJI(II)*, pp.76-77

⁴³² *CJI(II)*, p.82, the previous question motion was negatived

the clerk at the Table be 'settled by the House' and agreed by the witnesses; and the Members undertaking the proof of the articles were empowered to send for papers and records.⁴³³ These arrangements taken with the request to the Lords for six of its Members to appear at the bar of the House⁴³⁴ gave the Lords acute procedural problems. The Lords resisted the attempt to call its Members as witnesses pointing out that

the House of Peers, being a Court of Judicature and judges for all impeachments brought from the House of Commons, will examine such of their Peers as the Commons shall show shall desire, if any impeachment shall be brought before the lordships, according to the usual methods of parliaments.⁴³⁵

After three conferences the matter was unresolved⁴³⁶ when on 25 October Porter was given 'leave ... to appear' (rather than responding to a summons) in the Commons. With due ceremony following Westminster ritual he appeared 'with the purse', the symbol of his office, in which the great seal of Ireland notionally was kept, and with subtle choreography balancing his status with the privilege of the Commons

a chair being placed for him on the right hand within the bar, he laid down the purse and his hat at the back of the chair, and uncovered, was heard what he could say on the articles exhibited against him.⁴³⁷

When he withdrew, the Commons on a division found his answers to be 'satisfactory' and dropped the proceedings.⁴³⁸ The episode shows that even when pursuing a highly charged political dispute both Houses managed to operate what were essentially Westminster procedures and although strained they held and delivered a result that was accepted.

3.9 Conclusions

Given that the Irish House of Commons aspired to a corporate identity comparable to that of the Westminster Commons, it is unsurprising that, when faced broadly the same issues from 1692 to 1730, it came up with similar responses. As it strove to act and operate like Westminster, which had faced the same problems, it is to be expected that it reached for Westminster's procedures. Two characteristics stand out: (i) the consolidation and (ii) the development of procedures to

⁴³³ *CJI(II)*, p.84, 89-90

⁴³⁴ *CJI(II)*, p.90

⁴³⁵ *CJI(II)*, p.91; see also p.102.

⁴³⁶ *CJI(II)*, pp.102-05, 107-08

⁴³⁷ *CJI(II)*, p.108

⁴³⁸ *CJI(II)*, pp.108-09

respond to increasing quantity and greater complexity. A caste of Protestant landowners and professionals linked by family connections rapidly established a near monopoly over membership of the Commons and had broadly similar interests. As part of this consolidation, the franchise of Catholics was steadily eroded by legislation, practice and perception flowing from the Commons. As the grip of the Anglo-Irish landowners tightened and general elections became less frequent, election disputes became more common and sophisticated as agents and lawyers were employed and dozens of witnesses were produced before the Committee of Privileges and Elections. The Commons responded by copying, adapting and enacting parts of Westminster statutes and procedures and orders, to reduce the more egregious election abuses. Similar patterns can be seen in areas such as the expulsion of MPs and the refinement of privilege. Although development of procedures could be erratic, variable and tainted with a sectarian bias, the direction was towards greater due process and developing procedures that focussed on the House carrying out its main functions more effectively and efficiently. These developments required some adaptation to the particular practices followed in Dublin—for example, the protection of creditors pursuing heads of bills.

In the seventeenth century the calling of a parliament had been the occasion for a spring-cleaning of the House's rules and procedures at the start of the first session and often required an examination of Irish and Westminster precedents. When, from 1703, the House met regularly such an approach no longer worked. Nor was there a thriving corpus of distinct Irish precedents, as at Westminster, to search. The nascent *patriotic* self-awareness did not flow back into an attachment to the precedents and the procedural arrangements of the Irish Commons. Why should it, when the MPs sitting in the Irish Commons in the first third of the eighteenth century saw themselves as the 'English in Ireland'? The Irish House's own precedents had a minor impact on its development and, if they been systematically applied would have taken the Commons back to the early seventeenth century. Their use was largely confined to Irish intra-parliamentary disputes, particularly with the Lords; Westminster was not going to give them much credence. They were set aside when political reality and imperatives intruded. The way ahead was to emulate Westminster. Through a process of copying Westminster silently the Irish House was able to assert parity and overhaul its operations by keeping in step with Westminster. There were therefore clearly limits on the scope and direction of its institutional drift. At the heart of the relationship between the

Commons in Dublin and Westminster—as expressed in procedural and operational developments—was a tension: the Irish House to be independent and distinct from its Westminster sister had to be similar to function effectively and claim parity. The control of supply was central to the predicament. Like Westminster Dublin strove to assert, with some success, its primacy over supply. To justify the claim, no precedents were cited, just the 'the constitution of parliament', in this case code for 'what Westminster has, we claim too'. But to translate the principle into practice in Dublin, Westminster's supply procedures had to be adapted to the requirements of Poyning's Law. On the one hand the Irish House of Commons had to concede the crown's residual prerogative to initiate supply with a short money bill at the start of each parliament. On the other the crown (that is the government in London) had to allow Irish MPs greater freedom, than their counterparts at Westminster, to propose expenditure.

In contrast, the address, especially that to the monarch, allowed the Commons and the government to construct a political identity. It provided an opportunity to proclaim the correct operation of the political system of dutiful subjects publicising their direct loyalty to the sacralised crown. In addition, through the careful use of nuanced language it could convey the concerns of Members to the government in London.

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4 The operation of the House of Commons

This chapter examines how the Irish House of Commons conducted business. It begins with the business carried on within the House: the methods of decision, debate and divisions. It examines the structure of debate and procedures used to extend or curtail discussion and, similarly, how decisions could be precipitated or delayed. Drawing on the work of P.D.G. Thomas on the eighteenth century House of Commons at Westminster, the chapter and linked annexes chart the daily order of business and how it developed from 1692. For the most part these procedures followed Westminster closely but the heads of bill procedure produced significant procedural differences and shaped the dynamic of the session, most notably requiring a transmission recess when heads were sent to London for approval. The chapter considers the effect that Poynings' Law and the heads process had on the rate of legislative success from the 1690s.

The chapter also examines—as far as the available material allows—the activities of the Speaker in his capacity as chair of the House: his procedural powers and the tensions in his role as both custodian of procedures and party or faction leader and business manager. Others' roles are examined: the chief secretary, the 'undertakers' and the country gentlemen. Although 'the king's business'—especially supply and key measures the government wished to enact—are covered, the chapter looks at business initiated by Members and how it required *mini*-undertakers. The chapter sets out the financial procedures of the Commons and investigates the extent to which the processes for the scrutiny and agreement of supply shaped the session. The final section reviews committees: why they were established, what they did and how they were refined to handle the business of the House. This chapter assembles the evidence relating to their powers and methods of operation.

4.1 Decision and debate

The Irish Commons like its English counterpart proceeded by binary question or, as Erskine May put it in 1844, 'every matter is determined ... upon questions put by the speaker, and resolved in the affirmative or negative'.¹ The Speaker would point to a Member who was responsible for an item of business for which there was an order of the day or who had given notice of a motion. The Member initiated the business and framed a question. Debate could only take place when a

¹ Erskine May, p.166

question was before the House. When the debate was exhausted the question was put again by the Speaker, he 'collected the voices' and by the number and level of the responses he weighed up which side was in the majority and announced his assessment. If his evaluation was challenged, a division took place.²

In the vast majority of cases the putting of the question and the answer in the affirmative were formalities leaving no trace in the Journals beyond the smooth transaction of business. But, when the political temperature rose, questions had the potential to become the subject of debate and a division, and procedural arrangements could be tested. There was some shading in the Journals. As noted, where a significant decision is taken unanimously it was recorded as *nemine contradicente*, showing the House acting with one voice. The converse—that is, the absence of the phrase—usually meant that voices had been raised against the question but not sufficient for a division. In addition, to echo P.D.G. Thomas' comment on Westminster,³ the rarity of complaint seems to mean that the Speakers in Dublin were impartial in putting questions and collecting the voices. Sir John Perceval's diaries covering parts of the 1711 and 1713 sessions contains no disapproval of the Speakers' (Forster and Brodrick) chairing.⁴ There were, however, criticisms. In October 1703 the House passed a resolution that Vice-Treasurer Robinson was unfit for public employment. C.I. McGrath records that the resolution was considered by many Members unfairly proposed as it had not been part of the original question and had been added afterwards by the Speaker (Brodrick).⁵

As well as business on the orders for the day, a motion could be presented without notice. Isaac Manley MP gave an account of a 'trial of strength' in the Commons at the end of the 1725–26 session on an address to George I. On cue a motion expressing thanks was moved by an administration supporter 'as had been before concerted' but then St. Brodrick 'Brodrick and his friends objected, and as a [counter?] resolution' was offered and a copy 'delivered at the Table all in his own hand writing, and prepared before he came into the House, which was not much regarded', and was after some time withdrawn.⁶ The episode indicates that when an item of

² This paragraph draws on Thomas, *Commons*, ch.11.

³ Thomas, *Commons*, pp.192, 243–44

⁴ He had concerns about the Speaker's reporting of a decision in the *Votes*—see p.59 above.

⁵ McGrath, *Irish Constitution*, p.170

⁶ *SP*, 63–387 ff.152(stamped 73) (Isaac Manley to Charles Delafaye, 25 Feb 1725/6)

business came before the House a motion without notice could be sprung—in this case—on the administration. A written copy was handed in at the Table and Manley was able to get a copy; as it was withdrawn it was not entered in the Journals or printed in the *Votes*.

There were rules on debate. Members could only speak once in a debate in the House (as opposed to committee where they could speak more often). As debate could be adjourned⁷ it made sense not to allow much other business to interpose before debate resumed otherwise it would not be clear who had spoken. This rule had been applied in the seventeenth century: on 24 July 1661 debate was adjourned until 10am the following day and the House ordered that 'nothing to intervene; and that no Member, who has already spoken to the same business since that question was put, do, without the leave of this House, speak further thereunto'.⁸

At Westminster there were two well established methods of curtaining debate: moving the adjournment; and moving the previous question.⁹ Both were used in Dublin. At Westminster the motion 'that this House do now adjourn' took precedence over any earlier question. If carried, the House adjourned to the next sitting day. The first recorded division on the adjournment was during the 1661 parliament.¹⁰ After 1692 there is some evidence of the adjournment being used as a procedural device to curtail debate or kill business. On 25 September 1703 a motion to adjourn was put, to delay taking a decision on the arrangements for the election of a chaplain. The motion was negatived without a division.¹¹ On 24 October 1707, after the House found unanimously in favour of George MacCartney MP on a complaint brought against him by the Countess of Donegall and inhabitants of Belfast, there was a division on the adjournment in an attempt to head off a move to require the burgesses of Belfast to conform to the established church. Although the adjournment was negatived on a division, after further late night debate the House adjourned.¹² On resumption on 28 October debate was curtailed by the use of the previous question which was carried on a division and the resolution requiring conformity was also carried on a division.¹³

⁷ For example, *CJI*(II), p.268

⁸ *CJI*(I), p.435

⁹ Scobell, *Memorials*, pp.28-29

¹⁰ On 24 Apr 1662 when the House adjourned to 1 May (*CJI*(I), p.493), though strictly a motion to adjourn, in order to take precedence over other business, it had to be unencumbered with a date and time. The effect was identical.

¹¹ *CJI*(II), p.318

¹² *CJI*(II), p.560

¹³ *CJI*(II), p.564

Adjournment had the disadvantage that the day's business was lost with the consequence that the 'previous question' was the preferred dilatory tactic (see below).

Although the Commons controlled its timetable by deciding when and for how long to adjourn,¹⁴ external factors such as the need to transmit bills to and from London meant that the administration sought substantial influence on adjournments.¹⁵ On the receipt of bills from England Lord Lieutenant Sydney sent a message to the Commons on 22 October 1692, to give it 'timely intimation' that it had two weeks to complete consideration of the bills and that 'their Majesties intending that this parliament shall rise about a fortnight hence, and meet again sometime next spring'.¹⁶ But it was not all one way. On 28 October 1695, the first sitting day after it agreed the terms of supply, the House, having sought the concurrence of the Lords, told Lord Deputy Capel in convoluted language that it wanted a three-week adjournment:

so as it might be no prejudice or interruption to his Majesty's affairs; an intimation thereof being given to his excellency the lord deputy, he was pleased in return to say, he saw no inconveniency.¹⁷

From the administration's point of view there was no reason to keep the House sitting when the supply heads had been presented and a batch of bills had received royal assent. Next time, the contrivance was dropped and on 14 December 1695 and again on 28 March 1696 the Journals recorded that, after Capel had 'signified his ... pleasure that the House do adjourn itself', it adjourned.¹⁸ There followed a series of single day sittings and adjournments through to June 1697; the adjournments were sought from the lords justices signifying William III's pleasure that the House adjourn.¹⁹ The wording follows in outline that used at Westminster in the early 1690s.²⁰ The messy situation arose from the decline and death in May 1696 of Capel and the political instability that followed combined with uncertainty about the powers of the lords justices to prorogue

¹⁴ The control was set out in a standing order made on 19 Dec 1678: '*Resolved*, That Mr Speaker shall at any time adjourn the House, without a Question first put, if it be insisted on' (*CJE*(IX), p.560).

¹⁵ *CJI*(II), p.22; it is not clear whether this was notice of prorogation or adjournment; the session was prorogued on 3 Nov after it ended in acrimony over supply.

¹⁶ *CJI*(II), p.22; the procedure was repeated subsequently—see (II), pp.145, 148-51 (Dec 1695–Nov 1696).

¹⁷ *CJI*(II), p.112; an address to the lord deputy and his reply are not recorded in *CJI*.

¹⁸ *CJI*(II), pp.145

¹⁹ *CJI*(II), pp.148-51: this form of wording is used in the following sessions—pp.393 (4 Feb 1703), 462 (22 Mar 1704/5), 534 (14 Aug 1707), 620 (29 June-28 July 1709), 670 (24 June-1 Aug 1710), 719 (11 Aug-20 Sep 1710).

²⁰ For example: 'the Lord Chief Baron ... declared to both Houses, That it was his Majesty's pleasure, That both Houses should adjourn themselves until the one-and-thirtieth day of *March* next ensuing; and that if His Majesty should think fit, That the Parliament should then sit to do business, his Majesty would give notice thereof by his Royal Proclamation' (*CJE*(X), p.536; 5 Jan 1691/2).

'*Resolved*, That this House do now adjourn until the one-and-thirtieth day of *March* next ensuing'. (*CJE*(X), p.536).

parliament in the absence of instructions from London.²¹ In August 1696 the lords justices of England (William III being abroad) objected to their Irish counterparts' proposal:

for the parliament sitting upon an adjournment [as] they doubt the same thing may be pretended to there as it is in England; that there cannot be two demands of a supply made in one session; and therefore, unless there were a prorogation or a new parliament called, there would not be [more] money given than had been asked for by Lord Capel.²²

The exchange shows that the government in London expected the rules governing the operation of the Westminster parliament to apply to the Dublin parliament. In the event they did not, as the session continued with adjournments until 27 July 1697 when the Commons was summoned to the Lords to hear a speech from the throne and a fresh request for supply, which was granted.²³

The consequence of proceeding by adjournment meant that the parliament had to meet to adjourn. This allowed the House not only to carry out house-keeping business such as the issuing of writs for by-elections but also substantive business such as the endorsement and signing of the association in support of William III²⁴ and the expulsion of a Member who refused to sign it.²⁵

There was one division—on 11 May 1697—with 109 voting,²⁶ which indicated that these were not token sessions but Members were turning up in expectation of transacting substantive business.²⁷

These one-day meetings also gave the administration the opportunity to test the political temperature and the team replacing Capel to hone its management skills as well as meeting the government's needs. As Methuen observed after the meeting on 15 June 1697:

The success of this day in parliament makes me think a little prudent management cannot fail of success. Both Houses take a liberty here of proceeding in some business, notwithstanding the meeting is only to adjourn and this day several things of party and faction were laid with great heat upon occasions of votes of privileges the last day of meeting; but we had timely notice, and gained our point so entirely as to have both Houses adjourn without doing anything.²⁸

The last eight adjournments of 1695–97 session, however, made it explicit that the question for an adjournment was put. In other words the decision to adjourn was for the Commons. The entries

²¹ *SP*, 63–358 ff.19, 32(stamped 71) (William Wolsley to Secretary of State Vernon, 22 May 1696)

²² *SP*, Entry Book 274, p.284 (*CSPD: William III, 1696—20 Aug 1696*)

²³ *CJI*(II), p.155

²⁴ *CJI*(II), pp.145–47 (28 Mar 1696)

²⁵ *CJI*(II), p.147 (27 June 1696)

²⁶ *CJI*(II), p.153

²⁷ When, however, the House reconvened on 27 July 1697 there was an expectation of a further adjournment and so attendance was low but the bills had arrived back earlier than expected and the House filled and proceeded to consider them (*SP*, 63–359–38(stamped 92)).

²⁸ *SP*, 63–359 no.21(stamped 58, Lord Chancellor Methuen to [Vernon], 15 June 1697)

are not *nemine contradicente*, but it is unclear to what extent there was opposition. The House's authority to decide whether or not to adjourn was clearly demonstrated on 29 December 1698 when the lords justices asked the House to adjourn for a day. The House divided and agreed by 70 to 40 votes.²⁹ The purpose appears to have been to register a protest about the delay in the return of bills from England. The practicalities of legislative management required by Poynings' Law meant the lord lieutenant had a greater role than the monarch at Westminster where the adjournment was evidence of its control of its own affairs.³⁰ Heads of bills had to be reviewed by the Irish Privy Council, sent to London, representations exchanged and, if agreed and weather permitting, bills returned. This process was reliant upon the administration's management. From its perspective, the business of the parliament was supply and legislation. Leaving the parliament sitting while heads bills were transmitted risked longer sessions as a fresh batch of heads were prepared—and a return to the pattern of sittings of the 1661 and 1695 parliaments—or, worse, idle parliamentary minds turning to mischief. This is what happened in May 1716 when bills failed to arrive back from London. Chief Secretary Delafaye explained when the Commons reassembled:

we were in hope to have had four of our bills to lay before [them?] but none being come were obliged to adjourn them for a week longer ... after the question of adjournment had been put upon a message from the lords justices ... which was ever looked upon to put stop to everything, young Allen moved that the lords justices might be addressed for an account of what had been done in pursuance of [the] former vote of credit; they were told that it was pretty odd to call for that so soon, that however on their next meeting an account should be laid before them of what had been borrowed and how it was applied; their desire was to have it appear in the Votes that this account was demanded on purpose to insinuate into the people a jealousy of the government which however they could not carry. In this debate angry speeches were made... the great cry is against pensions and loading the Establishment and perhaps never was seen more malice and ill nature.³¹

Pensions were the most frequent target. In contrast expenditure on the military establishment and construction of barracks across Ireland was usually spared such criticism and the imperative of safety put a limit on how far the Commons would go in threatening supply.

The only time the lord lieutenant's management of adjournments came under strain was in the 1723–24 session, as pressure on Wood's patent was growing and St. John Brodrick threatened that 'no power could adjourn [the Commons] but by their own consent by which and his behaviour

²⁹ *CJI*(II), p.286

³⁰ Smith, *Stuart Parliaments*, pp.170-81

³¹ *SP*, 63–374(stamped 219) (Delafaye to [Secretary of State Stanhope], 4 May 1716)

since it is very plain that he has a mind to keep [the administration] in hot water'.³² By the end of the decade the normal pattern re-emerged and Lord Lieutenant Carteret complained to Edward Southwell on 26 February 1729/30, when the House began on a tranche of bills:

we have employment for one week. I hope other bills will come, so that we may proceed without further adjournments, which are very inconvenient to the country as well as to me. I am forced to detain the principal lawyers from going the Circuit that I may not want that strength in the House in case of accidents. I must still be upon my guard against the few peevish people, who talk about bringing in representations about the state of the nation in case the bog bill ... miscarry.³³

The second mechanism for curtailing debate was the 'previous question', a two-edged procedure used both to force a matter to a decision or avoid a parliamentary decision on a subject without losing the rest of the day's business. It had first been used at Westminster in 1604.³⁴ The procedure appeared in the Irish Journals from the 1661 parliament.³⁵ The previous question was frequently used at Westminster from 1689 and was recorded in the printed *Votes*. It reappeared in Dublin on 31 August 1695 when it was used to postpone consideration of supply.³⁶ Between then and 1730 the procedure was used about 20 times and the bulk of these were in the 1690s with a revival from 1707 to 1713. It was rarely used after 1715 and when it was, as on 7 November 1721, it appears to have been used to end a lengthy debate—in this instance on the national bank. The sharp decline was probably a symptom of the lowering of the temperature of debate in the chamber after 1715.

³² SP.63–382 f(stamped 1) (Lord Lieutenant Grafton to [Sir Robert Walpole]; 2 Nov 1723)

³³ *BL, Add.* 38,016, f 25

³⁴ Thomas, *Commons*, p.178; *Erskine May* (pp.173–74) explains that 'When there is no debate, or after a debate is close, the speaker puts the question, as a matter of course, without any direction from the House; but, by a motion for the previous question, this act of the speaker may be intercepted and forbidden. The words of this motion are, 'that this question be *now* put;' those who wish to avoid the question, vote *against* the previous (or second) question, which, if resolved in negative, prevents the speaker from putting main question as usual. It may, however, be brought forward again on another day, as a negation of previous question only binds the speaker not to put them in question at that time. If previous question be put, and resolved in affirmative, no words can be added to or taken from main question; nor is any further debate allowed, or motion for adjournment, before the question is put, as House has resolved that the question be *now* put, and must accordingly be put at once to the vote.'

³⁵ *CJI(I)*, pp.509–10; the case also gave rise to two rules on divisions (see Appendix 6.13.1).

³⁶ *CJI(II)*, p.48

4.2 The parliamentary session

A comparison of the timing of the introduction of (i) heads of bills and (ii) finalised bills between the 1695–97 (Table 16)³⁷ and 1729–30 (Table 17) sessions shows the development of the legislative processes.

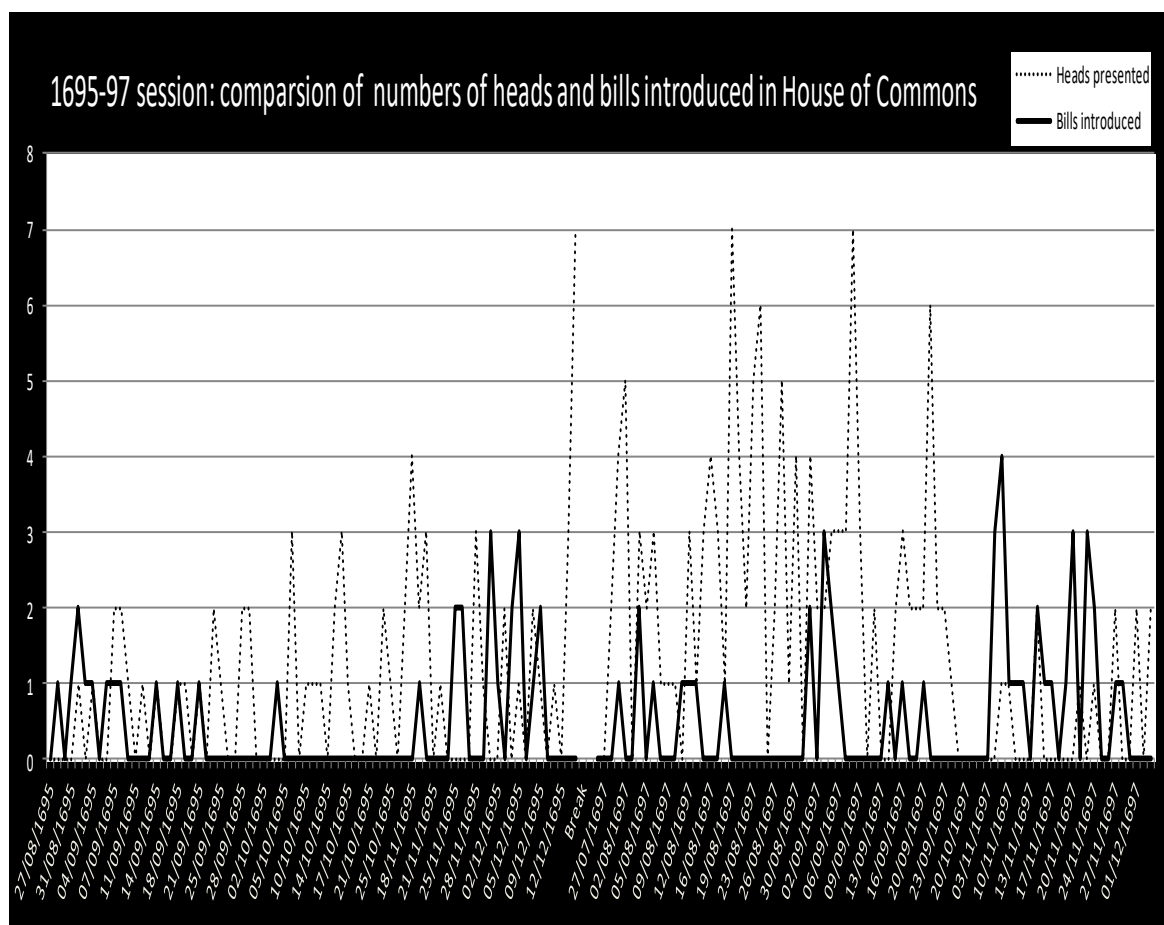


Table 16 1695–97 session: comparison of heads and bills introduced in House of Commons

³⁷ *ILD* counts two sessions: Aug to Dec 1695 and July to Dec 1697. Each had some of characteristics of distinct sessions—an opening speech from throne and fresh supply legislation—but there was no prorogations between 1695 and 1697, just a series of adjournments and a third of bills introduced in 1695 received royal assent in 1697 (17 out of 48). In procedural 1695 to 1697 has therefore been treated as a single session.

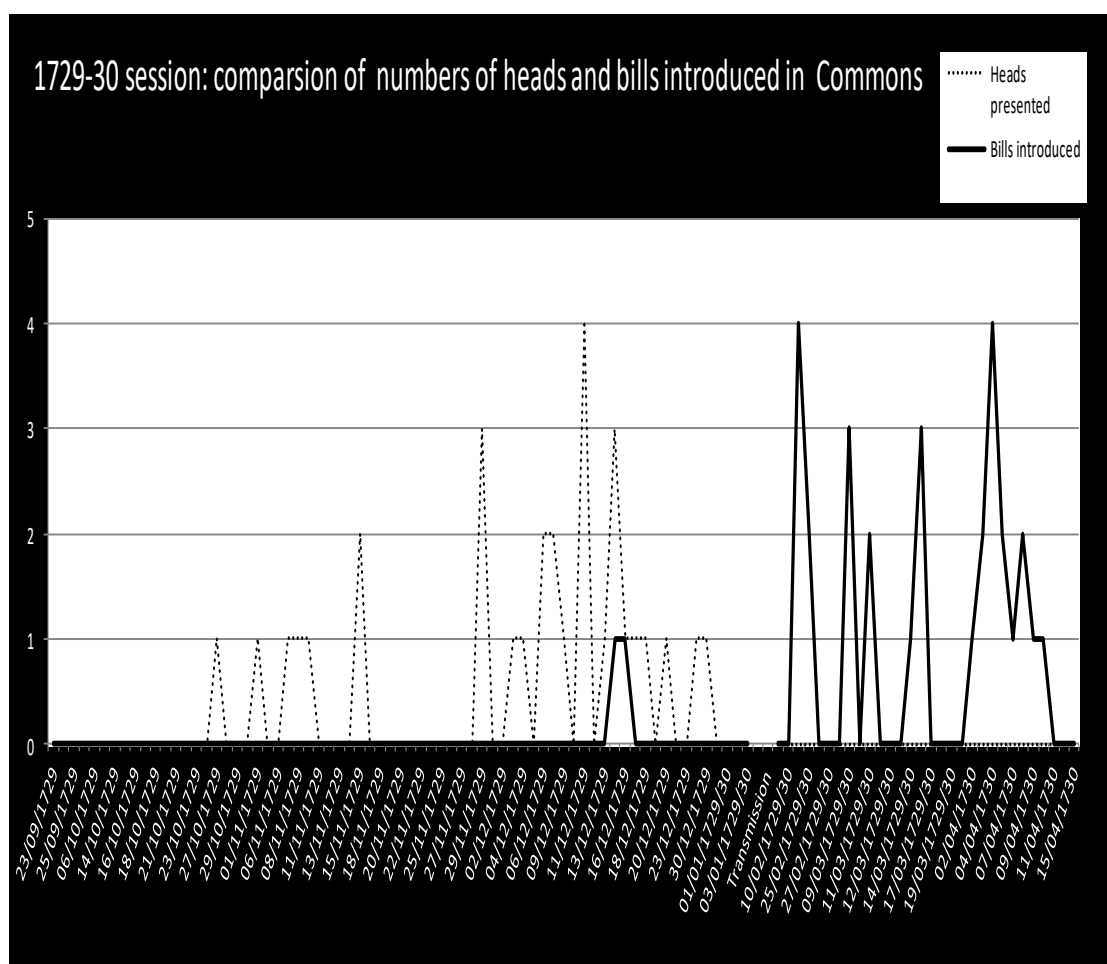


Table 17 1729–30 session: comparison of heads and bills introduced in House of Commons

Table 16 (1695–97 session) shows that, while the heads process was taking off, legislation was perceived as a rolling programme with, especially in 1695, no pressing need to present heads early. The bulk of the heads had been presented by September 1697. The legislative success rate of the Commons was 26% (35 out of 135) for the session (compared to 32% for all legislation). The following session, 1698–99, saw the pattern that emerged in 1697 strengthening with the bulk of the heads presented before December, when there was a transmission recess. The legislative success rate of the Commons fell, however, to 10% (4 out of 40 and compared to 22% for the total) in part because the session was prorogued upon supply being secured. By 1703–04 the pattern seen in Table 17 (for the 1729–30 session) was clearer with nearly all heads presented before a transmission recess and most bills introduced after the transmission (other than a diminishing number originating in the Privy Council). The success rate of the Commons in 1729–30 was 63%

(24 out of 38, with only four legislative initiatives starting in the Lords or Irish Privy Council).³⁸ The structure of regular meetings of parliament built around the heads process was emerging from 1703 and, moreover, petitioners and MPs increasingly understood how to work the system to their advantage, to secure the passage of legislation. The preponderance of the Commons and its improving success rate from 1703 rose (see Appendix 6.8).

Because of the transmission requirement, better handling in the Irish Commons was not the exclusive determinant of improved legislative success. Bills needed to be actively managed in London. In some cases the messengers carried out the functions of agents able to explain the background and to provide information. In November 1703 Lord Lieutenant Ormond told Secretary of State Nottingham that:

the bearer is the son of Judge Echlin and a Member of the House of Commons here. He has shown great zeal and forwardness in all things relating to Her Majesty's service, and can give ... a particular account of every transaction here during the session.³⁹

The messenger sent to London in July 1709 was Alexander Denton MP (in both Dublin and Westminster), Second Secretary of the Castle Secretariat of Lord Lieutenant Wharton,⁴⁰ who told Secretary of State Sunderland that he had 'attended all the Council Board when the bills of any consequence were passing there, will be able to give ... a better account and more ... than I can write ... and to answer any questions or difficulties that may arise upon' them. He added that he had given Denton 'what my thoughts are, as to some of them, which I have directed him to communicate to your lordship'.⁴¹ These agents were not acting for the Commons but at the direction of the administration and could report its views on legislation as expressed in the Privy Council. In 1723 the bills were sent over with a Mr Downs, a relation of the duchess of Grafton, who had previously worked in the Treasury and with under-secretary Stanyan in London, who therefore knew his way around Whitehall.⁴² Others were not so experienced. Chief Secretary Webster explained in 1719 that a Mr Hoy [Hoey], one of the lord lieutenant's ushers, who had taken over the first transmission of bills needed assistance and that Mr Reynel,

³⁸ Figures from *ILD*; and see Appendix 6.8.

³⁹ *SP*, 63–363 f.123(stamped 7) (Lord Lieutenant Ormond to Secretary of State Nottingham, 9 Nov 1703); the next transmission in Dec 1703 was also carried by an MP (*SP*, 63–363 f.143(stamped 59) (Ormond to [Nottingham], 6 Dec 1703))

⁴⁰ *HIP* biography; *CTB*, vol. 24 (1710) records at 27 Apl 1710 a warrant for £258 payable to Denton 'for going express with and soliciting bills sent by two expresses'.

⁴¹ *SP*, 63–366 f.143(stamped 53) (Lord Lieutenant Wharton to Secretary of State Sunderland, 5 July 1709)

⁴² *SP*, 63–381(stamped 196) (Whichcote to Temple Stanyan, 31 Oct 1723)

whom my lord lieutenant has ordered to solicit those and all the others that shall be sent over. Mr Hoy is a stranger in the public offices, and ... not very well acquainted with the steps he is to take in passing these bills.⁴³

By 1729 the administration was taking no chances with the money bills: Mr Broughton was sent with the money bills via Chester and Mr Wells sent with duplicates via Holyhead.⁴⁴ No such insurance was offered to other bills.

As the Hoy case shows, the messenger was often supplemented by agents acting for the officers of the administration. In 1711 Southwell's agent in London, William Wogan,⁴⁵ reported that Ormond's agent, Thomas Medicott,⁴⁶ had put the case for the contentious molasses clause in the supply bill as 'it seems to interfere with the power of the parliament here. But Mr Medicott having attended [the Privy Council] and offered several reasons in favour of the clause I hope [it] will pass'.⁴⁷ Communication sometimes faltered. On 25 December 1729 Secretary of State the duke of Newcastle explained to Carteret why changes had been made to the supply bill:

that the only reason for altering the bills in the manner it was done, was to make it consistent, and that all those who advanced their money to supply the exigencies of His Majesty's government might have an equal security for their interest till the principal were repaid them: But that if the Privy Council [and] those employed in the management of the Revenue had been informed of the several steps taken in passing the this bill through the House of Commons, and that the substance of the most essential of those alterations had been proposed there, but they would not receive it, the Lords of the Committee would have advised sending it back as it came how incorrect soever it might appear, rather than to have its being lost in Ireland, for the sake of these alterations'.⁴⁸

One 'messenger' with a noteworthy name occurs in a letter of 7 October 1707 from Chief Secretary Dodington, who was impatient to get bills back and before the Irish parliament quickly. He stated that he expected Jodrell to bring them directly from the ship.⁴⁹ No other information is given. But Paul Jodrell was clerk of the Westminster House of Commons from 1683 to 1727.⁵⁰

⁴³ SP, 63–377(stamped 17) (To [Delafaye], 16 Aug 1719)

⁴⁴ SP, 63–391(stamped 234) (Thomas Tickell to Delafaye, 20 Nov 1729)

⁴⁵ Bergin, 'Irish Legislative Procedure', p.181, comments on Wogan: 'Wogan emerges from his own letters as earnest and conscientious, and it seems likely that he undertook the role more thoroughly and systematically than any predecessor. His surviving letters to Southwell illustrate in lively detail the offices in London, the attitude of the English officials to Irish business, the disputes over fees, his own dealings with the different departments in his efforts to expedite the bills and the vicissitudes to which they were subject.181 He was in large measure the prototype of the official known later in the eighteenth century as the 'resident secretary'. As was the pattern in the Irish House of Commons, Wogan also acted as agenda for some private bills (p.182).

⁴⁶ He was also Ormond's secretary and estate manager and an MP at Westminster.

⁴⁷ BL, Add. 37,674, f.29 (Wogan to Chief Secretary Southwell, 6 Sep 1711); for molasses clause see p.194 below.

⁴⁸ SP, 63–391(stamped 280)

⁴⁹ SP, 63–366 f.92(stamped 234)

⁵⁰ Williams, *Clerical Organization*, pp.35–47, portrays Jodrell as an assiduous and systematic record-keeper and organiser, setting up what became the Journal Office of the Commons and a drafter of bills. There is another piece

Westminster was in recess until the first parliament of Great Britain convened on 23 October 1707 and so, if this is Paul Jodrell, it would be surprising if he were not a conduit for advice on procedure and record-keeping to the clerks in the Dublin parliament, which met throughout October. The traffic was not all one way. Lords Justice Galway recorded on 28 May 1716 that 'Mr Sterne arrived yesterday' with several bills.⁵¹ Enoch Sterne had been a committee clerk in the Commons in 1710 and was by this time Clerk of the (Irish) Parliaments. Direct contact between the clerks of the Commons at Westminster and Dublin was nothing new. As Coleman Dennehy notes, William Bradley, clerk of the House in 1613, was sent to 'serve an apprenticeship of sorts at Westminster, just at a critical point when the Irish journals were first being used and the English parliament was rapidly organizing its own procedures, records etc'.⁵² Direct evidence of contact and exchanges in the following century is lacking but the development of the Irish House in step or a few steps behind Westminster points towards contact. The pattern established in 1613 of observing and adopting Westminster's processes can be detected in 1692 and again from 1703. The references to Jodrell and Sterne point to a continuing link.

Reconvening the Irish parliament after the transmission could not be fixed with certainty but the authorities in Dublin appear to have been consistently optimistic about turn-around times⁵³ resulting in the need for further adjournments if bills did not appear;⁵⁴ short adjournments kept Members in Dublin and were grist to the rumour mills that particular bills would not come back or would be altered.⁵⁵ Most transmissions were therefore accompanied by pleas from Dublin for bills to be turned round quickly and unchanged.⁵⁶ After mishaps in the 1690s when bills had gone astray, the administrative arrangements from 1703 proved to be more efficient. Whitehall scrutinised the bills through an Irish committee of the Privy Council drawing on expert opinion from the law officers and where necessary, from others such as the Board of Trade, as well as giving petitioners their say. Whitehall was aware of the timing constraints but was not to be rushed at the

of evidence of direct contact with Jodrell: in 1703 Lt.-Gen. William Steuart MP discussed paying Jodrell for drafting a clause in what appears to be an English bill (*BL, Add. 28,891 f.283*).

⁵¹ *SP*, 63–374(stamped 244) (Lords Justices Galway and Grafton to Stanhope)

⁵² Dennehy, *Administrative History*, fn 20

⁵³ For example, *SP*, 63–366 f.173(stamped 43) (Wharton to Sunderland, 29 June 1709)) and *SP*, 63–367(stamped 343) (Ormond to Secretary of State Dartmouth) on 8 Aug 1711 Ormond estimated a five week recess was necessary; the actuality was two months.

⁵⁴ See *CJI* Jan-Feb 1703/4, May 1705, Sep 1707, July 1709, Aug 1710, Sep-Oct 1711, Feb-Mar 1715/6, Sep 1719, Dec 1721, Jan-Feb 1725/6, Feb 1729/30.

⁵⁵ See fn 329 below.

⁵⁶ For example, *SP*, 63–366 f.194 (stamped 118) (Southwell to Dartmouth, 13 July 1710)

expense of thorough examination. One problem the Privy Council encountered was the absence of copies of enacted Irish statutes as printing of Irish acts of parliament appears to have been erratic.⁵⁷

One significant change that emerged from 1715—showing that the procedures matured—was that royal assent to the supply bill(s) no longer marked the end of the session. As noted, the 1698–99 session finished abruptly when the supply bill had become law. In the reign of Anne supply bills had to tread water in the Lords while other legislation completed its passage for an end-of-session, omnibus granting of assent.⁵⁸ By the 1729–30 session the supply bills received assent in December 1729, that was before the transmission recess; all other bills received royal assent at the end of the session in April 1730. The timing of supply was no longer dependent on the administration addressing grievances (by assenting to legislation) but, instead, money was, in effect, voted ahead of, or on account for, legislation in the pipeline and emerging later in the session. The political process was developing.

4.3 Divisions

As in England,⁵⁹ a challenge by one MP to the Speaker's determination of the voices was sufficient to precipitate a division.⁶⁰ Divisions were much more frequent at Westminster than Dublin, although some circumspection has to be exercised on any figures derived from the Journals as Sir John Perceval's diaries for 1713 show that not all divisions were recorded.⁶¹ Inevitably the number of divisions increased during periods of political controversy—the 1692 and 1713 parliaments are cases in point. A division had characteristics of a battle, especially for those opposing the administration. When the main supply bill in the 1703–04 session came up for its third reading Southwell commented that it was the 'grand day for our supply' and that the opponents arrived early to 'observe a little the countenance of the House' before seeking a division.⁶² In this case

⁵⁷ In July 1710 the Privy Council's examination was held up as it did not have copies of earlier Irish legislation. Two manuscript copies of legislation passed in a previous session had been sent earlier but could not be found and duplicates had to be provided. *SP*, 63–366 f.206 (stamped 312) (Attorney general's report 18 July 1710), f.208(stamped 39) (Wharton to [Sunderland], 20 July 1710).

⁵⁸ For example, June 1705, Aug 1709

⁵⁹ Thomas, *Commons*, p.244

⁶⁰ *CJ*(I), p.582; for example, in 19 Sep 1662, the 'Speaker declared the affirmatives were the greater vote; but one of the Members standing up, and averring upon his judgment, that the negatives carried it, the House divided and appointed tellers; who reported, that the affirmatives, that stayed within, 33; and the negatives that went forth, 41'.

⁶¹ See Appendix 6.20 and p.56 above.

⁶² *BL*, *Add.* 28,893, f.65 (Southwell to John Ellis, [20] Feb 1704/5)

having reconnoitred they did not press for a division. At other times divisions appear to run in clusters—for example, of the six recorded divisions in the 1709 session, five took place in June 1707—or when attendance was such that a division was advantageous to one group. The reasons for calling a division were:

- a) to show the administration the strength of feeling—the divisions in the 1692 parliament appear to fall into this category;
- b) to test the number on each side; Delafaye reported at the beginning of the 1715 session that St. John Brodrick led an attack in the House of Commons on supply and he 'tried his strength ... upon a Question about printing the report of the Committee of Accounts wherein all the articles of the king's establishment that could be criticised are found fault with. But we carried it by 154 against 51'. The upshot was that Brodrick 'did not attempt a division when we came to the supply', because his support fell away and 'he would not have had 30 of his side'.⁶³
- c) where the House was fairly evenly divided and a division was necessary to determine a matter. Between 1692 and 1713 the average majority in divisions recorded in the Journals was 25 but in the some sittings such as 1695 and 1697 it fell to 10 and 17 respectively and in the 1707 session it was 12. The administration's expectation was that the opposition would not press for a division if it was going to lose by a large majority.⁶⁴ Marmaduke Coghill expressed surprise when St. John Brodrick pressed a division on amending the wording of an address to George I, which he lost by 103 votes to eight: 'what Mr Brodrick meant by this division I cannot tell, but I suppose he intends to make some merit of it, when he goes over, for he moved for leave today to go for England'.⁶⁵

In procedural terms the Irish House followed Westminster. There were two tellers for each side—though not always explicit from the Journals—appointed by the Speaker.⁶⁶ Journal entries and Perceval's diaries indicate that the Commons followed the English procedure with one side leaving the chamber and the other remaining. Members within the chamber were counted by the tellers and then they counted those coming back in. The Journals record an apparent exception in the division on 25 November 1713 on the election of the Speaker with the 'teller for the yeas (Mr Anderson Saunders) on the right ... teller for the noes (Mr John Moore) on the left',⁶⁷ indicating that all Members stayed within the chamber. This procedure was that used for a division in a committee

⁶³ SP, 63–373 (336) (Delafaye to [Stanhope], 17 Dec 1715)

⁶⁴ *Coghill Letters*, no.60 (To Edward Southwell, 8 Nov 1728)

⁶⁵ *Coghill Letters*, no.22 (To Edward Southwell, 27 Jan 1725/6)

⁶⁶ *The Letters of Joseph Addison*, Walter Graham (ed.) (Oxford, 1941), no.186 (20 June 1709)

⁶⁷ *CJI*(II), p.743

of the whole House, where the Members divided by going to different sides of the chamber,⁶⁸ and was the procedure used at Westminster for contested elections for the speakership.⁶⁹ It superseded the disorderly procedure in the previous election for a Speaker in 1613. On that occasion the supporters of Sir John Davies, who were in the majority, went out, but on leaving the chamber were locked out allowing those remaining within to put their candidate, Sir John Everard, physically, but temporarily, in the Chair.⁷⁰

In deciding who went out and who stayed the Speaker at Westminster was guided by precedents, the principle behind which was that those introducing a new matter or alteration should 'go forth'.⁷¹ A comparison of the divisions (from 1692) listed in the Journals with the later guidance in Hatsell's *Precedents* shows not only that the Irish House followed Westminster in the items listed but also in applying the principle behind the rule to items not in the *Precedents*.⁷² The Westminster procedure was adopted smoothly and silently: there is no evidence that an MP challenged the operation of the rule nor that anyone sought to draw up a list of precedents based on past practice in the Irish House.

P.D.G. Thomas, writing with mid eighteenth-century Westminster in view, suggests that there was a perception that the side that stayed had a slight advantage—since they would probably include among their number the lazy and those who wanted to retain a seat.⁷³ Analysis of the data gives some support to this view: those staying in the chamber won 58% of the divisions.⁷⁴ But the samples are small and the figures for the first two sessions of the 1727 parliament, which indicate those staying in won 74% of the divisions, show the risks of relying on data sets that are statistically too small. On the limited contemporary evidence available there is no evidence that contemporaries were aware of such a bias or attempted to skew divisions accordingly. Sir John

⁶⁸ Scobell, *Memorials*, p.37

⁶⁹ *CJE*(XIII), pp.325 (10 Feb 1700), 645 (30 Dec 1701); (XV), p.5 (25 Oct 1705)

⁷⁰ J. McCavitt, 'An Unspeakable Parliamentary Fracas: The Irish House of Commons, 1613', *Analecta Hibernia*, XXXVII (1998), pp.228-29

⁷¹ Thomas, *Commons*, p.251, cites the general rule established in the Westminster House in 1640. The rule was also recorded by Scobell, *Memorials*, pp.24-26. There is only one Irish example of uncertainty. On 20 June 1661 it was left to the Speaker to decide who should go out and who should stay. He said that the yeas should go out but the count was called off as the noes remaining were clearly in the majority (*CJI*(I), p.410).

⁷² *CJI*(II), index for House, no.4 (Divisions of the House) compared with Hatsell, *Precedents*(II), pp.186-211. For example, Hatsell states that on 'previous question' noes go forth and this is how all divisions on previous question are treated in *CJI*.

⁷³ Thomas, *Commons*, pp.129-30; in turn the view may have been derived from the sixteenth century (see Neale, *Elizabethan House*, p.383).

⁷⁴ See Appendix 6.19.

Perceval's diaries do not mention any advantage in staying in the chamber, even in the tumultuous and tight votes in 1713.⁷⁵ If Thomas is correct, the bias was slight and unconscious.

When the votes tied, the Speaker was called on to cast his vote.⁷⁶ There was no tradition of the Speaker at Westminster voting according to precedent until the middle of the eighteenth century. (One reason was that it was such a rare occurrence so there was no stimulus to formulate rules.) There is only one example of a tie in a pre-1692 parliament. On 7 August 1641 the votes tied at 50 each and although 'the casting voice was in Mr Speaker', he asked the House's leave to put off a decision until after the recess, which was granted.⁷⁷ The next instance was on 15 October 1695, when on the question that a Member be called to the bar to answer a charge of disorder, the Speaker voted with the yeas and the Member was called.⁷⁸ The next recorded ties were in the 1727–28 session on reports from Committee of Privileges and Elections. In the first Speaker Conolly voted with the yeas that a returned Member, Henry Ponsonby, a placeman⁷⁹ was duly elected. In the second he gave his vote for considering a report from committee forthwith.⁸⁰

4.4 The Speaker

Between 1692 and 1730 six men held the post of Speaker.⁸¹ All were lawyers and held the post for more than one session (except Levinge) and were major political figures in Ireland. The expectations and attributes of the office mirrored those of the Speaker at Westminster, as did most procedures governing his powers, functions and status. There was at Westminster a traditional, formalised etiquette that surrounded the occupant of the Chair: he was supposed to be impartial and he was not to be criticised directly in the House.⁸² The convention was not without purpose in that it eased the functioning of the House. It seems to have applied in Dublin as well but the political structure of Ireland differed: the administrations in Dublin Castle, more noticeable after 1711, lacked the direct connections and knowledge to secure a firm control of the parliament. Into this space and to secure the management of administration business in the Commons the

⁷⁵ *Perceval diaries*, pp.99-149

⁷⁶ Scobell, *Memorials*, p.27

⁷⁷ *CJI(I)*, p.285

⁷⁸ *CJI(II)*, p.90

⁷⁹ *HIP* biography

⁸⁰ *CJI(III)*, pp.488, 525; and see p.84 above.

⁸¹ See Appendix 6.2.

⁸² See Scobell, *Memorials*, p.82.

Speaker stepped. The result was that the Speaker had a degree of independence and influence on policy and patronage—often bolstered with another important office⁸³—not usual in Speakers at Westminster. (The closest parallel at Westminster was Speaker Harley.) Dennehy sees the tradition of active, if not independent, Speakers going back to Audley Mervyn in the 1660s.⁸⁴ C.I. McGrath suggests that a turning point came in 1703 with the election of Alan Brodrick as Speaker, who as a leader of the Whigs, was out of step with Ormond's Tory administration and set out to change, if not thwart, some of the administration's policies.⁸⁵ Brodrick does, however, present a danger for the historian: of the six the records for his speakership are probably the most extensive and personal.⁸⁶ His letters set out some of his thoughts and analyses of events (though he was always on guard that his correspondence might be read by hostile eyes and he painted himself as more passive and reactive than others perceived him); and Brodrick's abrasive behaviour provoked comments by others whose surviving correspondence is both better attuned to the activities in the Commons and more voluminous than that for 1715 to 1730. Subject to that caution, the focus in this section is on how the Speakers operated as chairman of the Commons. Three issues are examined:

- i. the inauguration process for Speakers;
- ii. management of business; and
- iii. procedural rulings.

The election and installation of the Speaker had five main steps:

- 1) instruction from the monarch to the Commons to elect a Speaker;
- 2) the election;
- 3) royal approbation;
- 4) claim by the Speaker of the ancient privileges of the Commons; and
- 5) Speaker's report back to the Commons.⁸⁷

⁸³ Brodrick was solicitor general and then attorney general, Forster attorney general and recorder of Dublin, Conolly Revenue commissioner and Gore, chancellor of the Exchequer.

⁸⁴ Coleman A. Dennehy, 'Speakers in the 17th-century Irish Parliament', in Paul Seaward (ed.), *Speakers and the Speakership*, The Parliamentary History Yearbook Trust (Chichester, 2010), pp.62-74

⁸⁵ C.I. McGrath, 'Alan Brodrick and the Speakership of the Irish House of Commons' in Kelly, etc. (eds.), *People*, pp.70-93

⁸⁶ Conolly's surviving papers are also extensive but reveal less of his thoughts and the direct working of the Commons.

⁸⁷ CJE(X), pp.347-48; Scobell, *Memorials*, pp.3ff

The House in 1692 followed these steps and most of the attendant choreography. Having been directed to elect a Speaker, the House chose Sir Richard Levinge and, as Sydney reported:

accordingly he was led to the chair by two of the Members after the usual manner. After he was in the chair he stood up and gave the House thanks for the honour they had done him, excusing his inability for so great an undertaking, and promising nevertheless his utmost endeavours to serve their Majesties and this country, and hoping the House would assist and support him therein.⁸⁸

The 'usual manner' to Sydney meant Westminster procedure. The Speaker-elect presented for approbation in the Lords made a formal speech saying how unsuitable and inadequate he was and requesting a direction to the Commons to reconsider its choice, which was rejected.⁸⁹ Levinge then accepted and requested the House's privileges:

freedom of speech and debate, and not to be molested in their persons, goods, or attendants; that the errors I shall commit in delivering the sense of the House be not imputed to the Commons ... and pardoned ... and when the public good shall require, I may ... have free access to your Excellency's most noble person.⁹⁰

But some of the details went awry, in part because Sydney was ill, which caused a delay in giving approbation. Members were sworn in by the Speaker-elect when English procedure was that this had to wait until the Speaker had received royal approval.⁹¹

In 1703 Southwell noted variance from Westminster procedure at the start of the 1703 parliament:

both Houses met in pursuance of the writs and [Ormond] went to the House of Lords in the usual state, and there made his speech, it being according to the precedents upon the Journals here, the custom to make it the first day, after which the Commons proceeded to their House to choose a Speaker.⁹²

On election as Speaker in 1713 Brodrick did not disable himself in his speech. Instead, he said 'that the difficulty of discharging that high trust made him tremble'. The reason being his fear that the customary offer might be accepted. Lord Chief Justice Cox speculated that:

No doubt but there was a glorious opportunity for exercising the prerogative in refusing him, and provocation enough, but there being no precedent in England since the Revolution, nor none at all here, nor any Instructions to do it, His Grace approved of him'.⁹³

⁸⁸ SP, 63–354 f.70(stamped 167) (Lord Lieutenant Sydney to Nottingham, 8 Oct 1692)

⁸⁹ 26 Nov 1713 Richard Cox commented to Edward Southwell (*BL, Add. 38,157 f.27*); this ritual continued in 1715 and 1727 with Conolly (*CJII(III)*, pp.11, 465) and Ralph Gore in 1729 (p.584).

⁹⁰ *CJII(II)*, p.10

⁹¹ The misstep may have been caused by the swearing being a new process in the Commons and was required by an English statute, which the Speaker-elect caused to be read once he had thanked the House for electing him.

⁹² SP, 63–363(stamped 262) (Southwell to Lord Treasurer Godolphin, 25 Sep 1703)

⁹³ *BL, Add. 38,157 f.27* (To Edward Southwell, 26 Nov 1713).

The comment itself that throws light on the basis for justification for procedures in the Irish House of Commons.

The speech from the throne was given when the Commons appeared for the instruction to elect a Speaker. This followed previous Irish practice in 1634, 1639/40 and 1661, when the lords justices/lord deputy declared the reasons for calling the parliament at first appearance of the Commons. Such an approach sat with the spirit of Poynings' Law, which required a certification process for reasons for calling a parliament. Westminster practice was for the speech to be made once the Speaker had been approved.⁹⁴ Levinge formally reported the speech when he returned after approbation as did his successors. It was not until 1715 that the practice changed and the speech was—following the Westminster model—delivered immediately on approbation of the Speaker.⁹⁵ One further change bringing the Irish House into line with Westminster practice was that when at the start of the 1695 parliament Rochfort returned to the Commons the first item of business was the first reading of a bill.⁹⁶ The procedure once established was followed at the commencement of all subsequent parliaments and in procedural terms moved the Commons from the straitjacket of Poynings' Law imposing the priorities of the administration to the Westminster model of a legislature setting its own agenda.

When arrangements were being made for the 1692 parliament Sydney told Whitehall: 'the Speaker of this House of Commons must have an allowance, or else nobody will undertake the office. The fittest man, certainly, is the Solicitor [Levinge], but, if nothing be given him, it will undo him. He deserves very well every way, and is very likely to please in that employment'. The Speaker's allowance was set at £500 per session and was paid by warrant to the Treasury for this and future sessions.⁹⁷

⁹⁴ The *CJI*(I), pp.63, 133, 386)

⁹⁵ *LJI*(II), pp.457-59; (III), pp.3-5

⁹⁶ *CJI*(II), p.44; the rationale for the presentation of a bill was that this action, which dated at Westminster from the sixteenth century, 'preserves and proclaims the right of the Commons to deliberate upon a subject of their own choosing, without necessarily turning first to the matters which may be mentioned in the royal summons' (House of Commons Factsheet G21, *The Outlawries Bill*, revised Aug 2010). This device was repeated at the start of parliaments in 1703 (p.315), 1713 (p.743), 1715 ((III), p.9) and 1727 (p.463).

⁹⁷ *SP*, 63–354 no. 49a(stamped 121) (Sydney to Nottingham, 27 Aug 1692); on 28 Sep 1692 Sydney told Nottingham that he could not find out what previous Speakers were paid but considered that it cannot have been less than £3 per day and [£300?] for equipage, 'which is little more than half of what the Speaker hath in England' (*SP*, 63–354 no. 63(stamped 154). Mary II was, however, unwilling to create a precedent, 'but would rather give him a gratuity for his pains and expenses at the end of the session' (*CSPD William and Mary*, 1692—4 Oct 1692). Sydney authorised £200 payment to the Speaker (*SP*, 63–354 no.80(stamped 184) (Sydney to [Nottingham], 22 Oct 1692). This ad hoc arrangement continued in the next session when a warrant was sent from London 'to the Clerk of the Houses of Ireland for the payment of £500 as a mark of royal favour to Robert Rochfort ... as Speaker'

4.5 Management of business

In 1704 Southwell gave London a critical and illuminating account of Brodrick's methods of operation. Brodrick 'sometimes in the chair ... would beckon Members to him, or write notes to them, directing them what to propose, and furnish them with arguments against the queen's interest'. Frequently he would reproach those

that did not run in with him, giving some rude language, and asking them how they could answer it ... to their own consciences, their country and posterity, and whether they meant to make themselves beggars.

He 'endeavoured to create an aversion' among Members 'to the parliament of England ... crying out on all occasions against [its] cruelties and oppressions' and he spoke against the alterations to heads of a bill made in England, 'and lamented the sad condition of Ireland, that no good could be had from England without some mixture of poison'. Brodrick claimed that 'nothing but his love of his country could make him be against' the administration but 'when the necessities of the government was at any time insisted upon, he knew the circumstances, and that there was no such necessity'. In his endeavours he was assisted by 'his most near relatives and friends [who] laboured by his example to discontent the House with the parliament of England'. Brodrick could also charm. When the Committee on Supply was sitting, rather than retiring into his chamber as the Speaker should, Brodrick was the first to speak from the floor and his going 'from man to man ... with earnest entreaties' during the ensuing division greeted those who came over 'saying welcome, welcome, and calling others over by their names whom he saw stay behind with so great passion as in the sum of affairs depended upon that vote'. Southwell explained Brodrick's influence 'there was never anything done in the House to the prejudice of the Crown, which had not its foundation first laid by himself in the committee' but he could be thwarted when 'some things projected by him in the committee were retrieved in the House'.⁹⁸ In 1713 Perceval broadly confirmed Southwell—at least during Brodrick's first term as Speaker:

when he was Speaker last time I found his [unruly?] passions were much more prevented by his being tied to some decency in their Chair: and could be seldom at liberty, for when he was in a committee he had it all to himself.⁹⁹

(*CSPD: William III, 1697*—7 Apr 1697); a further payment of £500 was made to Rochfort for the 1698–99 session (*CTB*, vol. 13 (1697–98)—16 Mar 1697/8). *CTB*, vol. 24 (1710)—27 Apr 1710 records a warrant for a payment of £500 to the Speaker for 1709 session and again *CTB*, vol. 26 (1712)—28 Mar 1712 records another for the 1711 session; there was another payment for 1715/6 (*SP*, 63–375(stamped 169)).

⁹⁸ McGrath, 'Alan Brodrick', pp.70–93 (*BL, Add. 70,037*, ff.201–03)

⁹⁹ *BL, Add. 47,027 f.58* (Sir John Perceval to Edward Southwell, 6 Dec 1713)

Southwell's analysis not only exposed Brodrick's tactics but also provided the basis for effective counter-measures. The House itself could, and did, check Brodrick. Southwell recorded at the start of the 1703 session when the House turned to its examination of Annesley's alleged 'false and scandalous assertions ... on ... Protestant freeholders ... the Speaker seeming too partial in the examination' of witnesses, it was put to the vote whether the Speaker should examine, or every Member of the House propound the questions, which was carried for the latter by 116 against 111.¹⁰⁰ Not only was the House curbing the Speaker, it was also moving from the older practice of the Speaker speaking on behalf of the House to the procedure that had emerged at Westminster where Members themselves put questions.¹⁰¹

Brodrick himself enjoyed both the power and the prestige of the speakership. With supply in mind, he wrote on 27 January 1703/4:

You cannot imagine what an alteration I observe in some men's faces: I have civilities, nay visits from some whom till very late I have not had the happiness to be spoken to by in some months past; heats are desired to be avoided, and all things were intended for the best on all hands, and we shall and must be very good friends again: nay now we are told the money bill is not altered (which I will believe when I see cause) they would not have given their vote for it, if it had been altered.¹⁰²

A year later he wrote with some self-awareness (and self-pity) about the position of Speaker: 'I am master of temper enough to act as becomes me though others should insult me in the worst manner' and 'my personal friends, as well as some who will not (even in me) suffer a Speaker to be ill treated secure me against anything my enemies may wish were to be compassed'.¹⁰³

Bergin's work on the Quaker lobby has also thrown light on lobbying of the Speaker by interest groups. He points out that in 1709 the Quaker committee, unhappy with the exemption proposed for Quakers in the popery bill, decided as part of their strategy to secure changes, to offer the Speaker 20 guineas and find out the clerks' due but Brodrick 'refused taking anything, and said he only desired us to believe he acted sincerely and from a principle, believing we were worthy of favour and that he was our friend'. Bergin comments that the committee was naïve to expect the Speaker should risk having it said his influence was up for sale for such a small sum and that some years previously Brodrick had fallen under suspicion of taking money from a Catholic agent

¹⁰⁰ SP, 63–363 no.74(stamped 242) (Chief Secretary Southwell to [Nottingham], 2 Oct 1703), *CJ*(II), p.317; see also pp.104ff above.

¹⁰¹ Thomas, *Commons*, p.23

¹⁰² *Midleton Letters* (1248/2/121-22) (To Thomas Brodrick)

¹⁰³ *Midleton Letters* (1248/2/163-64) (To St John Brodrick, 22 Jan 1704/5)

in return for supporting a private bill.¹⁰⁴ There is little evidence about the extent to which Speakers promoted private bills. Brodrick does not mention them in detail in his correspondence and there is not much evidence on Conolly's activities. On 20 August 1719 Conolly wrote to London, apparently as an exception, in support of a private bill of his relative Echlin: 'it is really an honest and just bill the family [ill-miscarried?] by the contrivance of one Mr Chilwood who has but an indifferent character and whose interest it is to give all the obstruction possible'.¹⁰⁵

Active intervention in committee by Speakers was not confined to Brodrick, who records that in March 1715/6 Speaker Conolly without adequate support from the administration

took hold of [an] opportunity when the House was in a committee on heads of a bill for farther securing the King's person and government, to propose a clause to be added to that bill for indemnifying dissenters for acting in the militia, and also all such as should be commissioned or employed in the army within ten years.

Ironically Brodrick regarded Conolly's action as 'ill-judged' in political terms but made no procedural objection.¹⁰⁶ Like Brodrick, Conolly operated with a coterie of supporters (though fewer were relatives) such as Henry Maxwell, whom Brodrick disparaged as 'the Speaker's echo'.¹⁰⁷ During the debates on the national bank in 1721 Brodrick noted that 'Mr Maxwell and Dean Gore'¹⁰⁸ were detached from the Speaker's House to a number of the Commons who were met at a tavern opposite to the Custom House, to encourage 'them to go on' and 'to assure them that they would and should be supported in it, and methods taken to soften or make proselytes' of opponents.¹⁰⁹ Conolly's management techniques had less of the splenetic proto-*patriot* that Brodrick displayed and more the patron and fixer. Brodrick records with disdain and apprehension that at Christmas 1721 Conolly entertained at Castletown not only his usual circle but the lord lieutenant and they discussed tactics for managing the Commons such as pushing preferred measures in a thin House.¹¹⁰ Brodrick himself, according to Coghill, adopted similar, though perhaps more dissembling, tactics when attacking the financial accounts presented at the 1725 session: 'he was

¹⁰⁴ John Bergin, 'The Quaker Lobby and its Influence on Irish Legislation 1692–1705', *Eighteenth-Century Ireland*, vol. 19 (2004), pp.32-33

¹⁰⁵ *SP*, 63–377(stamped 34) (To [Stanhope])

¹⁰⁶ *Midleton Letters* (1248/3/316-17) (To [Thomas Brodrick], 1 Mar 1715/6)

¹⁰⁷ *Midleton Letters* (1248/3/386-87) ([Lord Brodrick], to Thomas Brodrick, 10 Jun 1716); Hayton classes him a lieutenant of Speaker Conolly, *Coghill Letters*, p.xv.

¹⁰⁸ William Gore, chaplain from 1716 to 1731, was the brother of Sir Ralph Gore MP, who succeeded Conolly as Speaker in 1729. See p.200 below.

¹⁰⁹ *Midleton Letters* (1248/5/129-30) ([Alan Brodrick], to Mrs Martha Courthope, 7 Nov 1713)

¹¹⁰ *Midleton Letters* (1248/5/121-24 ([Lord Midleton], to Thomas Brodrick, 17 Dec 1721), 170-173 ([Lord Midleton], Dublin, to [Thomas Brodrick], 10 Jan 1721/2))

at the Castle professing zeal and regard for [Carteret's] ease and honour in the parliament, and yet always kept open table, and attended the ... Commons to encourage gentlemen to pursue the methods proposed by his son'.¹¹¹ Conolly was better at observing the courtesies without obvious hypocrisy. Charles Dering commented to Lord Perceval on 4 January 1715/6—both were Tories and both ceased being MPs when the 1713 parliament was dissolved—'I must do this justice to some of the Members to say that they have behaved themselves in a gentlemanlike manner, to me particularly Manley and Conolly'.¹¹² Dering also interpreted what has sometimes been seen as an act of Whig vengeance—the requirement of those who addressed the queen in support of Lord Chancellor Phipps—as the Commons being 'willing to mix mercy with justice' when they were allowed to beg pardon in their places (rather than the more humiliating on their knees at the bar) which was 'an end of that business'.¹¹³

On 17 June 1662 the Journals record the earliest example of a procedural ruling by the Speaker when he ruled that his estimation of the voices had to be called before the House moved to new business (though there may have been earlier unrecorded examples and later ones too). Brodrick was conscious of precedent and as a lawyer was reticent to rely on a partially remembered source in the heat of debate. In March 1704/5 he had passed to the House the letter from the Lower House of Convocation objecting to a clause in a money bill which affected tithes.¹¹⁴ The House having vigorously rejected Convocation's representations wished to express its anger by taking the deliverer of the letter into custody. Brodrick explained:

Sir Ri[chard] Leving moved to have him taken into custody and the question was called for. I delayed putting it for some time, and either twice or thrice asked whether it was insisted on to have me put it; for indeed I had in my head the privilege of the servants of the Members of the Convocation, though I had not lately read the 8 H.6.Cap.1. and the obstruction or hint I gave was as much as I could well justify; but the question was loudly called for, and unanimously carried.¹¹⁵

¹¹¹ *Coghill Letters*, no.21 (To Edward Southwell, 23 Dec 1725)

¹¹² *BL, Add. 47,028 f.116*

¹¹³ *BL, Add. 47,088 f.31* (10 Dec 1715)

¹¹⁴ See p.67 above.

¹¹⁵ *Middleton Letters* (1248/2/180-82) (To St John Brodrick, 14 Mar 1704/5); though this may be Brodrick protecting his back.

The incident shows the limits of his powers and room for manoeuvre in the face a House in full cry.¹¹⁶ Procedural rulings by the Speaker could be given from the floor, though to be effective they needed to be part of a wider strategy. Delafaye reported on an attempt by a new MP, Robert Ross, whom he describes as 'the forwardest and silliest fellow of that clan'—presumably dissident Whigs—to reopen the question of supply at the end of the 1715–16 session during a debate in the Committee on the State of the Nation:

Nobody else offering to speak on that side the Speaker stood up and [shewed?] how unparliamentary it was in a Committee on the State of the Nation to bring on the business of the Committee of Accounts and of Supply which were long since closed the supply given and passed into Acts of parliament and the sessions near a conclusion and how unreasonable, how ungracious, how dangerous it was to come into extraordinary methods the tendency of which could not be conceived or the consequences foretold ... The debate lasted about 3 hours. Their design was ... to have gone through the Establishment ... fallen on the pensions and addressed the King to strike them off. But we prevented them by offering at last some amendments to their question which sufficiently puzzled it afforded an occasion to move that their chairman should leave the Chair which was carried by 124 against 60, of which [the] last 30 were Tories [and] discontented Whigs.¹¹⁷

The account shows that Conolly had to lead the counter-attack himself and that his tactics to be effected had to be a combination of the procedural, political and psychological.

4.6 The day in the House of Commons

Following the pattern established by the 1661 parliament and Westminster the Irish House usually sat six days a week (Monday to Saturday) and adjourned to the following day (or on Saturdays to Monday).¹¹⁸ According to P.D.G. Thomas, the pattern of the day changed during the eighteenth century from morning-afternoon to afternoon-evening sittings with the consequence that select committees moved from evening to mornings as they could not meet while the House was sitting.¹¹⁹ Although there were late sittings from time to time, the Irish House down to 1730 followed the morning-afternoon pattern. But from the 1690s, when the start time was usually 9am or, occasionally, 8am,¹²⁰ the House drifted to a 10am start by the 1720s.

¹¹⁶ Another example occurred on 9 Dec 1713 when Brodrick claimed he could not stem the previous question being put and as a result the Provost of Ennis was ordered into custody (*Middleton Letters* (1248/3/138-39) ([Alan Brodrick], to [Thomas Brodrick], 9 Dec 1713)).

¹¹⁷ *SP*, 63–374(stamped 246) (Delafaye to [Stanhope], 31 May 1716)

¹¹⁸ A few exceptions: religious and 'political' holidays see Appendix 6.18; a shortage of work—for example, if the House had reassembled before the transmitted heads had returned; and shorter adjournments to allow the House to attend the lord lieutenant.

¹¹⁹ Thomas, *Commons*, pp.156 and 161-62, *HoP(1690)(I)*, pp.334-36

¹²⁰ Time given by Hooker, *Order*.

As at Westminster the Speaker was in charge of the agenda. In October 1703 Southwell criticised Speaker Brodrick's manipulation to secure the expulsion of William Robinson: "The last Votes of incapacity was put on the paper by the Speaker, and went off in a heat before people know of it, as many affirm to me that were by".¹²¹ A comparison of Sir John Perceval's diaries for the 1711 and 1713 sessions shows that the Journal entries appear to record business in the order in which it happened.¹²² On this basis it is uncertain¹²³ that the Speaker did, or could, organise business exactly according to the Westminster model order of business, which P.D.G. Thomas sets for a day in the English House of Commons in the eighteenth century:

- a) prayers;

Private business which included:

- b) petitions;
- c) reports of committees appointed to examine petitions;
- d) reports of committees appointed to draw up bills;
- e) private bills;

Public business which included:

- f) petitions;
- g) reports; and
- h) bills.¹²⁴

Although not recorded in the Journals, prayers were said each day by the chaplain. Prayers did not necessarily mean the start of business. According to P.D.G. Thomas, the Speaker at Westminster 'generally retired to his own Room or sat informally in the House at the Table ... to await a fuller attendance'.¹²⁵ The quorum was 40. There is no evidence either to confirm or disprove that this

¹²¹ SP, 63–363 no.98(stamped 186) (Southwell to Nottingham, 16 Oct 1703)

¹²² Lack of rigidity of the order of business in the *CJI* may also indicate that they recorded business broadly in the order it occurred.

¹²³ There are examples that follow Thomas' structure: 26 Oct 1692 and 18 Oct 1695. Hooker, *Order*, however, sets out an alternative of: royal business, public and then private. A day with many entries such as 3 Sep 1697 shows royal items (in this case with lords justices) coming first but beyond that separation of public and private is hazy. A number of items cut across the *Thomas* structure: messages from Lords; officers turning up at door of the House with documents; the summoned reporting at door of the House; and heads procedures which, for example, after transmission took priority. This pattern is seen in the day's business (30 July 1711) analysed in detail below and set out in Appendix 6.21. Even at the end of the period under review the private/public separation could be unclear—for example, see 14 Nov 1729. What might be suggested is that uncontroversial items tended to be taken earlier in parliamentary day (such as writs for by-elections and private business) with important and controversial, which generated debate, coming on later.

¹²⁴ Thomas, *Commons*, pp.153-68

¹²⁵ Thomas, *Commons*, p.153

was the pattern in the Irish House. The Speaker at Westminster signified the commencement of public business either by calling for the orders of the day or calling a Member who had given notice of his intention to make a motion.¹²⁶

The day in the chamber normally ended by 4pm. This is firmer ground as this is the time at which most committees met and, because they could not meet while the House was sitting, it provided an end point. In addition, when the House had to sit later than 4pm, an entry was required in the Journals: that all committees adjourn or that a committee due to meet that day adjourn.¹²⁷ One other Journal entry gives an indication when the House sat late, as well as implying that it normally concluded its business during the hours of daylight: 'That candles be brought in'.¹²⁸ If these two entries are counted, cautiously, as possible indicators of late sittings during the sessions, they show that the highest rate of late sittings was in the long 1695–97 session with around 30 late sittings, followed by the 1698–99 and 1704–05 sessions with 15 each, and the rate continued to fall until the 1713 session. On the evidence nearly 40% of the sittings in the truncated 1713 session went beyond 4pm; the one on 18 December lasted until past 2am.¹²⁹ While Sir John Perceval's diaries¹³⁰ show that the House sat and transacted business in the morning and normally finished by 4pm and corroborates that where the Journals recorded that candles were brought in or committees adjourned the House sat late, the omission of these Journal entries cannot be taken as confirmation that the House did not sit after 4pm.¹³¹ Where the Journals recorded that a debate occurred, a division took place, a matter was adjourned or amendments were made, these were indications that an item of business occupied the House for some time but the opposite was not

¹²⁶ Thomas, *Commons*, pp.154-55

¹²⁷ There are two pieces of supporting evidence. First, the *Perceval Diaries* recorded that the House sitting as committee of the whole House from noon until 6pm on 22 Oct 1711 (p.110) and the *CJI* contained an order that the Committee of Privileges and Elections, appointed to sit that day, be adjourned until the following Wednesday ((II), p.723). As the *CJI* recorded substantial business before the Committee sat the House must have convened before noon. Second, two days later when the Committee reported to the House Perceval said the debate was from 1pm until 5pm ((p.114) and the *CJI* recorded that the House ordered all committees adjourned (p.724).

¹²⁸ For example, *CJI*(II), pp.89 (14 Oct 1695), 476 (7 June 1705). In two cases where the *CJI* recorded the call for candles—on 29 Oct 1711 ((II), pp.726) and 764 (11 Dec 1713)—which are confirmed in the *Perceval Diaries* that the House sat to 6pm and 11pm respectively (pp.116 and 131). Following the second instance, Perceval said the sitting on the following day did not adjourn until 9pm but there was no entry in *CJI* that day for candles. Perceval also states that on 24 Jan 1711 candles were called for at 5pm (p.114) but the *CJI* has no such entry (p.724). 'That candles be brought in' was put as a question and could be the subject of a division—see p.108.

¹²⁹ *Perceval Diaries*, pp.135-36

¹³⁰ See Appendix 6.20.

¹³¹ Then last entry in the *CJI* ordering candles to be brought in was 26 Sep 1717 ((III), p.136), when the House reconvened at 5pm; on 6 Feb 1717/8 the Westminster House made a standing order that candles could be brought in by the serjeant-at-arms 'without any particular order for that purpose' (*CJGB*(XVIII), p.718). There is no equivalent Irish standing order but the new practice appears to have been followed after 1718.

the case: as noted, some business such as a lengthy debate on a motion that was withdrawn left no trace in the Journals.¹³²

Orders of the day were a convention developed at Westminster that provided some structure to business.¹³³ These were matters which the House had already agreed to consider on a particular day.¹³⁴ The process had two effects: it provided some notice of business coming up and prevented an item of business from being taken before the day to which it was set down; and it provided a queuing system and loose order of priority for business. According to P.D.G. Thomas, by the eighteenth century at Westminster orders of the day were usually confined to public business and reading of the orders was supposed to mean that no new business could be introduced after the orders had been read, though this was often not the case.¹³⁵

Although the 1661 parliament set items of business down for consideration on future days,¹³⁶ it was rudimentary compared to the system which operated in the Commons after 1703. The term 'order of the day' appeared in the Journal for 8 October 1692.¹³⁷ Because the volume of business was light (compared to later parliaments) or possibly because of the importance Members attached to them, items set down for consideration on a particular day were usually dealt with on the appointed day¹³⁸ and there was no need for a 'sweeper' entry to carry forward a day's unconsidered business. A Journal entry for October 1695 setting out fees indicated how the process was developing: 'to the Clerk of the Lobby, for every order he enters in the Book of Orders ... 1s'.¹³⁹ Although the *Clerk of the Lobby* is not known in Dublin or Westminster, the function is that of a Table Office, a place where a clerk received notice of items of business entered in the book of orders. From November 1703 the Journals regularly contained the entry 'all orders of the day, not

¹³² See pp.56ff above.

¹³³ Thomas, *Commons*, pp.94-98 and Ellis, *Practice and Procedure*, p.39

¹³⁴ Definition from *Erskine May*, p.167.

¹³⁵ Thomas, *Commons*, pp.94, 96-97; and see fn p.183 above.

¹³⁶ For example, see *CJ(I)*, p.602.

¹³⁷ *CJ(II)*, p.9

¹³⁸ For example, on 14 Oct 1692 the House gave a first reading to a bill for confirming the Acts of Settlement, etc. and ordered the second reading the following Monday (*CJ(II)*, p.16); on Monday 17 Oct the bill received its second reading and was committed to a committee of the whole House on the following Friday at 10am (pp.18-19); on Friday 21 Oct as second item of business the House went into committee to consider the bill and immediately reported—in this case against the main parts of bill—and the House agreed with the committee's recommendations and rejected the bill (p.21).

¹³⁹ *CJ(II)*, pp.95, xx

proceeded on, be adjourned till tomorrow',¹⁴⁰ particularly when the House was busy.¹⁴¹ By 1711 the entry occurs in the majority of daily entries. The decision to read the Orders of the day was put as a question: 'That the House do proceed on the Orders of the Day'. On 24 October 1711 the House divided on the question and it was negatived by 109 to 105 votes. As Sir John Perceval's diaries reveal,¹⁴² the question was put to cut short a debate on a motion made that day. As a consequence the debate on the motion continued and the orders of the day not proceeded with were adjourned to the following day.¹⁴³

Notwithstanding the order in which business was actually taken, there was increasing distinction between private and public business.¹⁴⁴ On 15 November 1703 the House '*Ordered*, That during this session no motion be made in any private business after twelve o'clock'¹⁴⁵ and on 1 June 1709 the House '*Resolved*, That no new Motion be made, or any Petition received after twelve o'clock, without leave of the House; and that the same be a standing order of the House';¹⁴⁶ it was subsequently amended to 1pm on 14 June 1710.¹⁴⁷ Sir John Perceval's diaries largely focus on the business taken according to the orders as the day's main business and, if he is representative, may therefore indicate why attendance in the morning was thin.¹⁴⁸

Appendix 6.21 sets out—middle column—for one day, 30 July 1711, the items considered 'according to Order'. The first and third columns summarise the history of the House's consideration before and subsequently of each item of business taken that day. Analysis of the table shows the following.

- a) There was variation in the tightness of the management of business. Not unexpectedly, the supply process was managed firmly with only one deferral—from 26 to 28 July—which was to allow for additional papers to be produced to the Committee of Accounts and for it to report on 28 July.¹⁴⁹ In contrast, although the

¹⁴⁰ *CJI(II)*, p.369 (3 Nov 1703)

¹⁴¹ The earliest example of the entry 'The Order for the Day being read' is 26 Oct 1692 (*CJI(II)*, p.28).

¹⁴² See Appendix 6.20.

¹⁴³ *CJI(II)*, p.724

¹⁴⁴ Although following Westminster practice, these orders may have been spurred by peaks in private business or, more likely as they preceded transmission, to devote time to finalising heads already in the legislative process.

¹⁴⁵ *CJI(II)*, p.369

¹⁴⁶ *CJI(II)*, p.596; the House had in the previous session '*Ordered*, That it be a standing order of this House. that no new motion be made after one o'clock, unless leave of the House be first obtained' (*(II)*, p.496).

¹⁴⁷ *CJI(II)*, p.659

¹⁴⁸ *Perceval Diaries*, pp.131-32

¹⁴⁹ *CJI(II)*, p.704

heads of a bill for the better securing the liberty of the subject and for preventing of imprisonment beyond the seas were initially actively managed, they failed to be considered by the House despite having been given two slots for consideration (28 July and 2 August). (Heads of a bill with a similar title had been considered during every session since 1695 and had been rejected repeatedly by the Privy Council in London; in the pressure on business before the transmission adjournment it may therefore not have been given priority.)

- b) As at Westminster one indication that a measure had priority was that it was considered before the remaining orders were read—on 30 July both supply and the vagabonds heads of bill were taken preferentially ahead of the queue.
- c) The heads for the relief of Dorothy Rawdon, spinster, show that orders of the day in Dublin included private as well as public legislation—possibly to manage its progress.¹⁵⁰
- d) There was short-term, at least, planning ahead: business not completed on Tuesday, 31 July was put down for Thursday, 2 August, not 1 August, as that day's business included supply.
- e) The ordering of business to be taken at noon on a specified date 'and nothing to intervene' may have signalled some priority but was no guarantee that an item would be considered. This echoes P.D.G. Thomas' assessment of Westminster that there could be no literal interpretation of orders appointing certain business for particular times.¹⁵¹
- f) According to Perceval, the main item of business was consideration of the tillage (or corn) bill which occupied business from noon to 6pm.¹⁵²

4.7 Undertaking the management of business

David Hayton has defined undertakers as providing 'the government with a parliamentary majority in return for a voice in policy-making and a substantial portion of official patronage for themselves and their dependents'.¹⁵³ He has argued that emergent undertakers, or parts of the undertaking system, can be seen from the 1690s (as opposed to the previously established view of the 1720s).¹⁵⁴ This section is not a comprehensive review and analysis of the undertaking system but

¹⁵⁰ Enacted as 8 Anne c.6 (private)

¹⁵¹ Thomas, *Commons*, p.158; for example, on 14 Sep 1697 the House ordered further consideration of the heads of a bill for preserving game be adjourned until 8am the following morning (*CJI*(II), p.196); the business was brought up on 16 Sep but towards end of the *CJI* entry (II), p.197) and it was further adjourned to the following Saturday without a time allocation (II), p.201).

¹⁵² *Perceval Diaries*, p.110

¹⁵³ Hayton, *Ruling Ireland*, p.106

¹⁵⁴ Hayton, *Ruling Ireland*, pp.106-30 and *Coghill Letters*, p.xvi.

examines how the undertakers' activities fitted into the operation of the Commons. The techniques used to manage the administration's business—negotiation, presenting a case, organising supporters, mastering procedure, keeping a weather-eye out for problems, dealing with difficulties—were necessary to the management of most parliamentary business. (Indeed, they can be found in modern legislatures and in the Westminster model are concentrated in the whips' offices.) Two contemporaries set out the standard statement of the job of undertaker. The first case is a letter written in October 1723 from Archbishop Boulter to Secretary of State Newcastle commenting on a threatened contention in the Commons 'about paying the debts of the nation'. Boulter reassured Newcastle that 'as the management of [the] affair is put into the hands of the Speaker, and the rest of His Majesty's hearty friends, ... all will end well' and while there were 'great endeavours used to mislead the country gentlemen ... there will be equal pains taken to set them right'.¹⁵⁵ The assessment was accurate as, despite the turmoil over Wood's halfpence, supply was secured. Second, when Conolly became ill in 1728 Coghill, reflecting on his skills in the Commons considered that he was

able to unite and keep people together ... by obliging several of them by providing for their friends or relations in the Revenue, and such a one will be necessary in the House ... to keep people together, or they will either wander as sheep without a shepherd or will get into factions that may render the administration here uneasy.¹⁵⁶

These extracts highlight that *undertaking* focussed on an important but specific range of business: predominantly supply. As Boulter wrote to Newcastle on 22 November 1729, when supply had been secured in that session: 'the King's business is now over'.¹⁵⁷ In other sessions the list might extend to legislation such as enacting the Treaty of Limerick or relief for Dissenters and highly charged proceedings such as Chief Secretary Sir John Stanley's attempts in 1713 to influence the debates on Dublin election.¹⁵⁸

For other business, including public bills, the administration kept a watching brief protecting the administration's interests and the royal prerogative and keeping a weather eye out for trouble.

¹⁵⁵ SP, 63–386(stamped 165) (12 Oct 1725)

¹⁵⁶ Coghill Letters, no.40 (To Edward Southwell, 13 June 1728)

¹⁵⁷ SP, 63–391(stamped 238)

¹⁵⁸ SP, 63–369(stamped 57) (Chief Secretary Stanley to Secretary of State Bolingbroke, 17 Dec 1713)

Southwell's account of the debate leading to the expulsion of John Asgill¹⁵⁹ shows him as an observer, sympathetic to Asgill but passive:

Mr Asgill was then heard in his place upon the book laid to his charge; the character of the man and his generosity in his profession, together with several useful proposals he has for the improvement of the country did at one time seem to dispose the House very much to bring him off, or at least to let the matter drop. But Sir Richard Buckley and Mr Tenison having exposed the many indecent expressions in that book, and he himself in his defence owning the writing such a book, and pretending only there were many errors in the printed copy produced to him, and not seeming to make any recantation of any errors therein contained; after a very long hearing the question being put for his expulsion, it went without any negative.¹⁶⁰

On legislation promoted by Members for parties other than the administration, the administration had the protection of the well-used provisions of Poynings' Law providing the power to revise and veto.

Much time was spent by the administration fretting about the country gentlemen, who were more a type of MP than a party label. Coghill worried that sheep-like they would be misled 'by insinuations of crafty men',¹⁶¹ often lawyers spouting *patriot* arguments. The administration had a dislike of rhetoric, especially when coming from those who opposed or questioned its approach, but appreciated the value of the clear and convincing exposition of its own case. But it was not always able to get its case across to the country gentlemen. In July 1719 Webster complained that when debate arose on the terms of the address responding to the speech from the throne on the 'method of rendering the Protestant Dissenters more useful ... some gentlemen [thought] that by any general words of compliance ... in their address, they should lay themselves under an unlimited engagement of favour to the Dissenters'. This obtuseness required careful handling.

Webster continued that if the administration pressed too hard:

it would very probably produce such heats as would obstruct the more necessary business of the session and unite such a number of Whigs with the Tories as to give great perplexity. I cannot help thinking from the intimacy I have with several Members, and upon observing a great reluctance even in some of His Majesty's servants who are in every other respect very zealous for his service, and are of consequence in the House, that, if the gentlemen were left to themselves without the government's interposing any further in this affair, the terms ... will more easily be obtained.¹⁶²

¹⁵⁹ See p.105 above.

¹⁶⁰ *SP*, 63–363 no.93(stamped 198) (To [Nottingham], 15 Oct 1703); see also p.105 above.

¹⁶¹ *Coghill Letters*, no.18 (To Edward Southwell, 30 Oct 1725)

¹⁶² *SP*, 63–377 no.105(stamped 226) (Chief Secretary Webster to Secretary of State Craggs, 2 July 1719)

As this quote also shows the use of undertakers did not mean that the administration contracted out contact with Members. Southwell complained to Nottingham in 1703:

It is a miserable fatigue we are under. We are forced to use a great deal of claret and a great many arguments There is a most strange mixture of Scotch and fanatical principles which sours the mass. They are jealous of everything, and were it not that [Ormond] has a great personal interest, and many are ashamed to deny him ... nothing at all would be done... We found them mighty hearty and frank before they were chosen; now they begin to look angry and forget what they have promised.¹⁶³

Southwell, a loyal courtier, explained that during the 1705 session Ormond had 'taken very true pains to talk with and convince personally most of the Members: and [there] are near 30 of those against us last time, come over, who are sensible how they were imposed upon'.¹⁶⁴ Later lords lieutenant continued the practice. At the start of the 1719 session Webster reported that Lord Lieutenant Bolton 'had yesterday in the evening a conference with some of His Majesty servants and other Members of the two Houses concerning the meeting of the parliament' at which some MPs asked for delay as many were detained in the country choosing new mayors and corporations and as a result Bolton sent a message to both Houses 'desiring them to adjourn themselves to ... 1st July; which they have accordingly done'.¹⁶⁵ Sensitivity to the needs of the country gentlemen cut both ways in managing the timetable. Southwell in planning the 1705 session appreciated the benefits of beginning the transmission recess at the same time as the start of the assizes since 'in this kingdom most of the gentlemen have business of law, or bargains to make ... so as they will be very glad to be loose by that time to attend them'.¹⁶⁶ In 1725 the start of the session was delayed because of the 'backwardness of the harvest' (and to give the administration time to sort out the accounts before they had to be presented to the Commons).¹⁶⁷

Philip Perceval confirmed the advantages of a generous social approach to the country gentlemen. When, contrary to the usual pattern, it was rumoured that MPs would be summoned to attend after the transmission recess on 1 February 1725/6, he commented with Carteret in view that:

a little eating and drinking well timed goes a great way with our country gentlemen, and this contrary to custom has been very sparing, and according to the general opinion it proceeds from too great a frugality which is no way conducing to popularity, for one bellyful of good meat and drink is more acceptable to the generality than twenty courteous smiles

¹⁶³ SP, 63–363 no.69(stamped 252) (Southwell to Nottingham, 25 Sep 1703)

¹⁶⁴ SP, 63–365 f.104(stamped 99) (Southwell to [Secretary of State Hedges], 1 Mar 1704/5)

¹⁶⁵ SP, 63–377(stamped 236) (Webster to Delafaye, 26 June 1719)

¹⁶⁶ SP, 63–365 f.82(stamped 81) (Southwell to Hedges, 17 Feb 1704/5)

¹⁶⁷ SP, 63–386 f.81(stamped 58) (Lord Lieutenant Carteret to Secretary of State Newcastle, 7 Sep 1725)

which people imagine to be put on as occasion serves, and perhaps the next day no more notice taken of you than if you were never seen before.¹⁶⁸

Southwell on occasion carried out some functions that later would fit the undertaker's job description. From the surviving correspondence it is clear that he analysed the opposition and temperament of the House, counted and kept track of MPs and weighed up arguments and legal issues.¹⁶⁹ In 1703 he led a team to negotiate with Speaker Brodrick, the effective leader of the main group opposing the administration:

last night by appointment, I went to his house where as he said 8 or 9 of his friends should meet so many of the other opinion and discourse matters... I then exposed to him what the queen expected; how much [Ormond's] credit was at stake; the advantage to Ireland by showing a good temper towards England. We urged and argued the matter every way ... he would only consent to give for the support of the government for one year, or give £75,000 [on the grounds] that thereby there might be a session the next year and that we might have annual parliaments. His company agreed all this, as ours disagreed, and showed how different this practice was from what had been done in former governments and from the great professions he had made and so we parted without coming to any conclusions... It has often been the fate of this country to harken to such as load them into wild extravagant counsels, which has made them suffer.¹⁷⁰

Southwell's successor as chief secretary, Dodington, lacked his subtlety in managing Members.

He complained:

this miserable people ought to be grateful and have such laws as are for their security and the benefit of human society and though in some things they differ from our laws in England yet they are proper and adapted to the temper and circumstances of this country.¹⁷¹

With Delafaye the chief secretaryship reverted to the Southwell mode. He explained to Whitehall what had been required to get the supply through the 1715 session:

much application and industry, we were forced to meet every night with the chief of our friends to provide against the next day's battle, the rest of the day was spent either in the House or in running about to solicit the Members and keep our forces together, whom Brodrick with as much diligence endeavoured to debauch and had this work lasted ... a week longer it would have killed us all.¹⁷²

The chief secretary was at the political sharp end in the Commons. He had to be present monitoring the debates and organising administration business and ready for anything that might happen. In 1703 Southwell explained what happened on a debate on the quantum of supply when the civilities required by the conventions of the House were breached and a Member rose up:

¹⁶⁸ *BL, Add. 47,031 f.93*

¹⁶⁹ *BL, Add. 28,891 f.104 (4 Oct 1703), 28,893 f.65 (26 Feb 1704/5), 34,773 f.27 [undated, mid 1690s]*

¹⁷⁰ *SP, 63–363 no.85(stamped 219) (Southwell to Nottingham, 9 Oct 1703)*

¹⁷¹ *SP, 63–366 f.83 (stamped 231) (to [Dartmouth], 14 Aug 1707)*

¹⁷² *SP, 63–373(stamped 336) (Delafaye to [Stanhope], 17 Dec 1715)*

and said that although many gentlemen had made great preambles and professions of duty to the queen and respect to my lord lieutenant, yet it was plain they acted contrary... This was immediately caught up and pushed with all the heat imaginable. The words were demanded to be writ down. They called out to the Bar, and all the resentment possible was shown, and when with all the difficulty in the world we had endeavoured to bring them to some temper, and the gentleman had begged pardon, one Member still insisting upon it to have it censured, another accident happened; for a gentleman, instead of calling him down to order, said to him: you shall sit down. This set them in a new flame, and those that were averse to the supply made all the advantage of this they could, and said it was plain that things were to be crammed down etc.; whereupon we were forced to excuse the indiscretion of both the Members and put off the business till Monday, which in all probability had then passed.¹⁷³

The chief secretary had to be able to read the House. At the start of the 1703 parliament Southwell reflected that 'there is no answering for the proceedings of a public body; but no arguments are wanting in for Her Majesty's servants' and so he was hopeful for the session.¹⁷⁴ He noted how the House changed its view of absentee pensioners which he cited 'to show the difference of their sentiments from one day to another'.¹⁷⁵ Arguments had an effect. Perceval explained that before voting against the 'amended' money bill in August 1709 he had listened very carefully to the arguments but he was not persuaded to vote for the bill as there was adequate supply for a year ahead: 'I saw this was a proper opportunity to exert and support a part of our Constitution'.¹⁷⁶ When the administration failed to perform in the debates on Wood's halfpence in 1723 Sir Robert Walpole chided Lord Lieutenant Grafton that the criticisms raised in the Irish parliament should have been answered. But at Westminster Walpole had control of a party to back up those arguments. As Chief Secretary Thomas Clutterbuck explained on 1729: 'it is a very indifferent situation to serve under a government which has neither power, not party, to support it but is left at the mercy of a parliament'.¹⁷⁷

In the absence of a solid parliamentary majority other tactics were deployed to assist the administration. First, opponents could be left to burn themselves out (they too lacked a party structure). Bolton explained during a debate on supply in 1719: 'Mr Hamilton and one Macartney, a very forward young gentleman,¹⁷⁸ made a speech in opposition to the supply, and Mr St. George

¹⁷³ SP, 63–363 no.105(stamped 168) (Southwell to Nottingham, 23 Oct 1703)

¹⁷⁴ BL, Add. 28,891 f.104 (Southwell to John Ellis, 4 Oct 1703)

¹⁷⁵ SP, 63–363 no.106(stamped 166) (Southwell to Nottingham, 23 Oct 1703)

¹⁷⁶ BL, Add. 47,025 f.121 (*Recipient unclear*, 4 Aug 1709)

¹⁷⁷ SP, 63–391(stamped 261) (Chief Secretary Clutterbuck to Delafaye, 14 Dec 1729)

¹⁷⁸ Youth was often cited by correspondents as grounds for criticism being equated with immaturity, inexperience, gullibility and presumption.

flamed extremely but our friends made them no answer which provoked them so that they went out of the House'.¹⁷⁹ In the 1703–04 session, although the administration was tempted to adjourn once it had secured the supply heads, Southwell explained to Nottingham:

that it will be better to let them tire themselves and spend three or four days extraordinary than by seeming to hurry them give an opportunity for them to say they had not time given them to do the country's business.¹⁸⁰

Second, sometimes it was better to keep quiet and let others speak. Coghill explained in 1729 on the debate on the amended supply bill that:

the prime serjeant, attorney and solicitor generals, Harry Maxwell and Dr Trotter who were to have spoken [for the administration], had there been occasion, were silent, finding the disposition of the House for the bill, and thought it better that the debate should be carried by those who were not in the service of the crown, and believing if they should speak, it would prolong the debate, and occasion replies.¹⁸¹

Third, compromise could divide opponents. Coghill reported in February 1725/6 that St. John Brodrick was not able to carry his supporters in amending the wording of an address to the king because 'such a spirit appearing against it, he was forced to let it drop, he afterwards proposed another which was much disapproved of ... and finding he could not withstand the intentions of the House ... he being answered by many Members'. The administration was able to live with a counter-proposal 'relished by the country gentlemen' and Brodrick had to pretend he liked it 'but we all apprehend it to be no more than a forced compliance, not being able to carry when he proposed, and finding that those he called his friends would not follow him'.¹⁸²

For opposition to become effective it needed an issue around which to coalesce. In 1727 Coghill explained to Edward Southwell that a particular

motion was made with an intention to try if a party could be framed, upon some topic of Patriotism, which ... has often deceived young Members (of which I have been one,) which in the end have always proved mischievous to the country, and a means only to help designing men to what they aim at: witness the sole right, and the taxes for one year.

¹⁷⁹ *SP*, 63–377(stamped 103) (Lord Lieutenant Bolton to Craggs, 30 July 1719)

¹⁸⁰ *SP*, 63–363 no.126(stamped 13) (13 Nov 1703)

¹⁸¹ *Coghill Letters*, no.63 (To Edward Southwell, 20 Dec 1729)

¹⁸² *Coghill Letters*, no.23 (To Edward Southwell, 26 Feb 1725/6)

But for a party to operate it also needed leaders and Coghill commented in the same session that in the absence of St. John Brodrick (ill) and Henry Boyle (in England) 'there is nobody ... able to cement people together so as to form any party to make much opposition'.¹⁸³

Management of the parliament and the legislative process outside the chamber rested with the chief secretary and lord lieutenant. Although Conolly, a model undertaker, did correspond with Whitehall, the written material examined does not show him operating, to secure the smooth passage of bills after they left Dublin. The lord lieutenant and chief secretary were in a key position to provide information and were expected to. Southwell told Secretary of State Dartmouth at the opening of the 1711 session that he would have 'constant accounts of our proceedings'.¹⁸⁴ The administration's key job was to explain supply bills and get them through as quickly as possible.¹⁸⁵ Of particular sensitivity was explaining to Whitehall the risks in altering particularly a supply bill. In December 1715 Delafaye explained to London that he expected:

new battles, for our opposers keep together and seem very active and industrious, they are most or all of them here, whereas many of our friends could not be kept in town. The enemy have a great dependence upon you altering the money bill ... in which case they hope they shall be able to throw it quite out.¹⁸⁶

As regards other bills most correspondence of the chief secretaries and lords lieutenant was taken up with reassuring the government that most bills were in order or greatly desired in Ireland and so would assist the smooth running of the parliament. In August 1711 Ormond wrote to Secretary of State Dartmouth that very few bills should give trouble and he drew attention to the clause in the money bill taxing the import of molasses¹⁸⁷ and begged that no alteration be made. He pointed out that the coal bill¹⁸⁸ was 'very popular and will prevent a great evil, and therefore I hope no petition will be regarded that may put any stop to it' and he requested a quick turn-around.¹⁸⁹ Southwell wrote in parallel to Dartmouth:

¹⁸³ *Coghill Letters*, no.27 (8 Dec 1727); this sentiment was not new; two decades earlier Lord Chancellor Cox commented to Edward Southwell [in 1707?]: 'the very men who whilst they personate Patriots delude many and seem to have great interests the minute they turn courtiers (as they call it) loose all their popularity and signify little. In short their talent is in doing mischief and in not doing good'; (*BL*, 38,155, f.21).

¹⁸⁴ *SP*, 63–367 f.79(stamped 60) (Southwell to Dartmouth, 5 Jul 1711)

¹⁸⁵ For example, *SP*, 63–387(stamped 1) (Archbishop Boulter to Newcastle, 10 Jan 1725/6)

¹⁸⁶ *SP*, 63–374(stamped 18) (Delafaye to [Robert] Pringle, 8 Jan 1715/6)

¹⁸⁷ The tax was set at a level that preventing imports and was considered in London to be a restriction on English trade; Hayton, *Long Apprenticeship*, p.50

¹⁸⁸ *For the more effectual preventing the engrossing, forestalling and regrating of coals imported into this kingdom. A heads in 1710 had been rejected by British Privy Council; the 1711 heads was returned and enacted (Bill no.0582 (ILD)).*

¹⁸⁹ *SP*, 63–367 f.171(stamped 352) (21 Aug 1711)

I hope your lordship will let us have all our bills, or at least a great number of them: for people here are very fond of their productions: and I believe there never were so many bills that entrenched so little on the prerogative and could give as little jealousy to England as these do which has been carefully avoided.¹⁹⁰

They also explained Irish sensitivities. In January 1727/8 Carteret advised Newcastle to be careful on handling legislation on reversal of outlawries. He drew attention to the 1717 and 1725/6 resolutions of the Irish Commons against the reversal of outlawries and explained that the implications for property rights in Ireland should not be touched except at his peril.¹⁹¹ The matter was so sensitive that he asked the government not to ask the attorney general for copies of outlawries while parliament was in session.¹⁹²

4.8 Legislative procedures

Conrad Russell's observation about earlier English parliaments that 'bills are what the Commons returned to whenever the heat was off'¹⁹³ holds good for the Irish House of Commons. When not pre-occupied with a political struggle such as impeachment the usual fare was petitions and legislation. The legislative procedures of both the Westminster and Dublin parliaments appear identical with three readings of bills in each chamber before royal assent. There were, however, significant differences which hardened into procedural forms. On 9 December 1695 the Commons addressed the lord deputy for assistance for Protestant refugees, which included a request for a heads of a bill to allow certain refugees to become freemen without payment of the usual dues.¹⁹⁴ The request was not for a bill but for the lord deputy to supply a heads of a bill. No heads appeared. If they had, the Irish parliament—or more likely the Commons alone—would have been in the position of reviewing the administration's legislation (as it did with supply) rather than the other way round. In addition, the government in London would have been in an anomalous and uncomfortable position if it decided to reject such a heads sent from the Commons. In the event legislation emerged in 1697 when the House drafted its own heads.¹⁹⁵ The administration was, however, until around 1705 a significant source of legislation with bills originating in the Irish Privy

¹⁹⁰ SP, 63–367 f.173(stamped 354) (Southwell to Dartmouth, 21 Aug 1711)

¹⁹¹ CJ(III), pp.169, 450

¹⁹² SP, 63–390(stamped 8-11) (Carteret to Newcastle, 26 Jan 1727/8)

¹⁹³ Russell, *King James*, p.186

¹⁹⁴ CJ(II), pp.138-39

¹⁹⁵ CJ(II), pp.189, 196, 199; the heads of a bill *for encouragement of Protestant strangers to come and settle in this kingdom* was rejected by English Privy Council; Bill no.5138 (ILD).

Council—see Appendix 6.8.¹⁹⁶ Although the process of legislation starting in the Irish Privy Council never reached the point of being a token exercise, there was a clear decline with the initiation of business transferring to the Commons. (Heads starting in the House of Lords tended to focus on religious matters and administration but it did not take up the slack from the Privy Council.)

As Hayton and Kelly have pointed out the 'heads process meant that the Irish parliament legislated to meet the concerns of the political nation rather than the priorities of the government'.¹⁹⁷ The pretence that it was a humble petition and request to the Irish Privy Council to draw up the bill fell away by the turn of the century¹⁹⁸ to be replaced by the formula that the heads of bill 'be put into form and transmitted into England, according to Poynings' Law'.¹⁹⁹ The heads process was what in today's terminology would be called draft legislation.²⁰⁰ Each House of the Irish parliament had scope to devise its own procedures, although anchored to Westminster processes, and those that emerged had distinct features with, for example, the Lords more overtly following convention with three readings whereas the Commons had only two for a heads.²⁰¹ In contrast to finalised bills there was no bicameral handling of heads of bills, which, with a few exceptions,²⁰² went through one House before being sent to the privy councils. As most heads started in the Commons it gave that House a preponderance in the legislative process. This appears anomalous given the

¹⁹⁶ Of 187 items of legislation that the *ILD* records as starting in the Irish Privy Council, 153 originated in the 20 years from 1692 and these measures had a greater likelihood of enactment (53% between 1692-1730) than measures starting in either the Commons (36%) or the Lords (29%). Over a quarter of the legislation was private or concerned with the division or amalgamation of parishes; and from 1705 an increasing proportion of that enacted via this route was private legislation.

¹⁹⁷ D.W. Hayton, in D.W. Hayton, James Kelly and John Bergin (eds.), *The Eighteenth-century Composite State: representative institutions in Ireland and Europe 1690–1800* (Basingstoke, 2010), p.10

¹⁹⁸ On 22 Oct 1692 (*CJI*(II), p.23) the House agreed and that 'several heads [of a] report ... shall be heads of a bill to be presented to the lord lieutenant and council, in order that a bill may be prepared and transmitted into England'. The Committee that drew up the heads was to present it to the lord lieutenant. See also (II), pp.74, 83.

¹⁹⁹ For example, *CJI*(II), p.281 (29 Nov 1698)

²⁰⁰ Bergin, 'Irish Legislative Procedure', p.16, points out that the original meaning was 'the outline or main points to be included in a measure regardless of where it was being prepared'. It had a use beyond 'measures'—for example, a 'heads of a report' meant a draft report setting out the main points to be covered.

²⁰¹ Mary T. Hayden, 'The Origin and Development of Heads of Bill in the Irish parliament', *The Journal of the Royal Society of Antiquaries of Ireland*, vol. 15, no. 2 (1925), pp.121, 125

²⁰² There are a few heads which were considered by both Houses: the 1695 heads of the Bill of Rights, a significant constitutional measure affecting operation of parliament:

On 7 Oct: the heads were sent down from the Lords and read; the Commons ordered, a select committee 'to consider the methods of proceed on the heads of the Bill of Rights ... that all Members who come have voices, and report their opinion to the House' (*CJI*(II), p.83).

10 Oct: the committee reported and the House entered upon consideration of the heads 'which being read paragraph by paragraph, and the question being severally put, the House did agree, *nemine contradicente*, with an amendment to the fourth head only' (*CJI*(II), p.85).

16 Oct: the Commons sent the heads back to the Lords with changes (*CJI*(II), p.95).

22 Oct: the Lords asked for a conference. The Lords agreed with all the amendments, except on the need for frequent parliaments, on which the Lords offered an amendment in lieu. On a division the Commons agreed to accept the Lords amendment (*CJI*(II), p.105).

24 Oct: the Lords and Commons agreed a joint delegation to take the heads to the lord deputy (*CJI*(II), p.107).

ingrained bicameral nature of the Westminster system, the legal expertise in the Lords and prickliness of the Lords on its privileges. There was, however, no shortage of lawyers in the Commons. The Lords had to agree to any bill that eventually emerged and so it could always veto the measure. The administration was opposed to bicameral heads. Lord Chancellor Methuen reported on 12 August 1697 that:

Our Lords have had a foolish debate for settling a method with the Commons by conference for the two Houses joining in the heads of bills to be presented to the government. It is an innovation that must have an ill effect, and therefore I got the debate adjourned till tomorrow morning, hoping, in the mean time, to inform the Lords of the ill-consequence of it.²⁰³

Methuen's actions had the desired effect. He did not elucidate on his reasons but the heads of a bill that had been through both Houses would have more of the characteristics of a bill and the position of the government would be weaker and risked a reversal of roles with it being reduced to the party with the veto. Nor were the Lords enthusiastic. When in October 1703 the Commons attempted a bicameral approach and sent up a heads of a bill making it treason to impeach the succession of the crown, the Lords sent a message back that it was not convenient to proceed in the method proposed by the Commons. The Commons then reverted to the usual procedure by sending the heads to the lord lieutenant.²⁰⁴ (The Lords not wanting to appear less loyal then drafted its own heads.) The exchange shows that by 1703 the heads were a unicameral activity, and for constitutionally and politically significant measures, the 'second' House could prepare its own heads of bill.²⁰⁵ Once the system was established (and accepted by the administration) there was no incentive for the lead House to work with the other House. By 1703 the transmission recess bisected the session and it became imperative to push as many heads as possible to the lord lieutenant before the recess rather than to achieve a consensus with the other House.

A heads of a bill that came back as a bill was introduced to the Irish parliament and went through the standard *Westminster* procedures of three readings in each House. Henry Scobell in his account of Westminster processes recognises that some bills may be prepared in draft as heads and he is clear that the decision to endorse a draft does not oblige the House to pass a

²⁰³ *SP*, 63–359 no.56(stamped 127) (Lord Chancellor Methuen to [Vernon], 12 Aug 1697)

²⁰⁴ *CJ*(II), pp.329, 336; *LJ*(II), p.18

²⁰⁵ There was one further attempt at the end of the 1715–16 session to set up a bicameral arrangement for drafting heads but the administration quashed it (see p.219 below).

subsequent bill: 'it is lawful to debate or argue against all or any part thereof, to alter or reject it'.²⁰⁶

But, because of the need for the privy councils' approval; bills could not be amended, each stage of the parliamentary consideration was binary—approval or rejection. The bill procedures of the Irish Commons were therefore an evolution, or distortion, of Westminster procedures.

The Irish legislative process was an elongated version of Westminster processes and required nine additional stages²⁰⁷ and questions to the 14 identified by P.D.G. Thomas in the Westminster legislative process.²⁰⁸ Bills introduced after the transmission followed the Westminster procedures but because of the constraints of Poynings' Law in a hollowed-out form and, increasingly in the 1720s, to a shortened timetable.²⁰⁹ Procedure in committee, for instance, gave the appearance of following that of the Westminster with paragraph-by-paragraph consideration followed by consideration of the preamble and title²¹⁰ but given that no changes could be made this was procedurally futile. Instead it became an opportunity to examine the extent to which the bill had changed since the heads had been sent to the lord lieutenant. (As discussed below, both the Commons and Lords expended much effort checking bills against their heads.)

The two main routes by which legislation was initiated in the Commons were: (i) petition; and (ii) motion by a Member. (There were others: (iii) Privy Council; and (iv) the House of Lords, which are touched on for the purposes of comparison.) Sitting behind the mechanics of the procedures are a number of questions: (i) who initiated, drove and managed legislation; and (ii) what degree of scrutiny was carried out by the Commons.²¹¹

The consideration of petitions was a substantial component of the work of the Commons. The first printed volume of the Journals—covering the parliaments from 1613 to 1666—lists 794

²⁰⁶ Scobell, *Memorials*, p.45

²⁰⁷ See Appendix 6.14.3.

²⁰⁸ Thomas, *Commons*, pp.48-64

²⁰⁹ Scobell, *Memorials*, p.44 describes the rationale for the process at Westminster: 'bills, especially public bills, have not usually been read more than once in one day, but put off to the next day, or for two or three days, (except it require haste) to the end the Members of the House may have time to consider of it: and (if they shall desire it) may peruse the bill, to enable them to speak to it at the next reading'. This level of consideration was not required at this stage in Dublin.

²¹⁰ Thomas, *Commons*, p.51; confirmed by entry 3 Nov 1692 (*CJI*(II), p.34).

²¹¹ This section draws on the *ILD* in distinguishing between private and public legislation—essentially private legislation concerned an individual or property or a small group of individuals or properties with no appreciable public impact. On this basis private legislation would encompass an act, for example, allowing an individual to sell land to pay off his or her creditors but not one, for example, regulating the Dublin workhouse.

petitions.²¹² Subjects ranged from requests for recompense to representations against legislation before the House.²¹³ Dennehy sets out in detail the development of the seventeenth-century procedures for petitions.²¹⁴ The volume did not decrease after 1692: the Journals covering 1692 to 1713 list 619, and for 1715 to 1730 471. Because of the destruction of contemporary records and because—as Perceval's diaries indicate²¹⁵—most petitions were neither of interest to the majority of Members nor caused much controversy, they have become the background noise of eighteenth-century Irish parliaments. The main features of the procedures applying to petitions to the Commons before 1692 are set out in Appendix 6.22; it is worth noting that the procedures did not follow the detail of Elsynge's *Ancient Method* with its emphasis on the role of the judges in the Lords.²¹⁶ The Journals for the 1692 parliament show two changes over earlier parliaments. The first was a requirement that all petitions had to be signed.²¹⁷ As this change was made on the first day that the House of received petitions, 12 October 1692, it may have been in imitation of English practice.²¹⁸ Second, on 22 October the House ordered 'before any petitions be received for private bills, that a committee be appointed to inspect [the] petitions, and report their opinion ... to the House', which was coupled with a ban on receiving private bills for two weeks.²¹⁹ What emerged was a bespoke process where petitions for private heads of bills were either scrutinised by a committee, to establish the facts and to give an opinion on the merits of the request,²²⁰ or sent to a committee for the heads to be drafted. Either variant of committee was empowered or instructed to investigate as the House considered necessary. There are two additional changes recorded in the Journals from the 1690s. First, the instruction that a petition lie on the Table was first recorded on 20 October 1692.²²¹ This could be used as a device to delay consideration until another process had been completed or to discard the petition without explicit rejection. Second, although there

²¹² *CJI(I)*, index; there is a concentration in the 1640s—it appears that in the absence of legislative business, the Commons had ample time to consider petitions; the quantity was such in July 1641 that the House appointed a committee to sift them (*I*), p.260).

²¹³ For examples, see *CJI(I)*, pp.750, 16, 670-74. Petitions dealing with election petitions and those on privilege are considered in other sections.

²¹⁴ Dennehy, *Administrative History*, pp.34ff

²¹⁵ See Appendix 6.20. Perceval does not mention petitions.

²¹⁶ Elsynge, *Ancient Method*, pp.251ff; Scobell, *Memorials*, p.87 has little to say on handling petitions.

²¹⁷ *CJI(II)*, p.14 (12 Oct 1692)

²¹⁸ The English Parliament had legislated on petitions in 1661—*An Act against Tumults and Disorders upon p[re]tence of p[re]paring or p[re]sented publick Petic[i]ons or other Addresses to His Majesty or the Parliament*. The English House had made it a requirement for petitions to be signed in 1685 and 1689.

²¹⁹ *CJI(II)*, p.21

²²⁰ For example, *CJI(II)*, pp.245 (7 Oct 1698), 273-74 (23 Nov 1698)

²²¹ *CJI(II)*, p.20; in this case Table is referred to as the 'Clerk's Table'.

was a 1642 precedent, with the leave of the House petitioners were able to withdraw their petitions—the first instances were in October and December 1695.²²² The procedure, which was used regularly thereafter (especially for election petitions), ensured that where parties came to an agreement the House could be spared time on a pointless process.

The correspondence of Marmaduke Coghill with Southwell concerning a petition to the Irish Commons in January 1727/8, although not concerning legislation, throws light on petition processes. The petition concerned the sheriff's actions in pushing aside the usual returning officer for Downpatrick, the seneschal, to fix the date for and run the 1727 election himself.²²³ First, drafting a petition and answering for it at the bar of the Commons required both expertise and reputation. Coghill advised Southwell to send his solicitor to, and 'employ Mr Lindsay, a gentleman well heard at the bar of the House of Commons, and has been often there this session'. He cautioned: 'your agent mentioned Mr Nutley ... but you know he has not that esteem in the House of Commons that I wish he had, and employing a man any way obnoxious to them will perhaps give offence and injure your cause'.²²⁴ Coghill reviewed the draft petition, showed it to at least one other MP for comments and put Southwell's case to others. In the event the prime serjeant, Henry Singleton MP, was instructed and presented the petition.²²⁵ It was not in the name of Southwell but his seneschal for the borough. Second, as well as drafting the process required management, Coghill advised against presenting the petition on 9 January 1727/8, the first day after the recess as 'I feared ... the House would be thin and our friends not there, nor sufficiently appraised before it was offered to the House'. Dean Gore (of Down), chaplain to the House, carried out this task.²²⁶ The high and sub-sheriffs were summoned to appear.²²⁷ The next stage was to prepare the case. The dean told Coghill that 'he would get some friends to meet in his chamber on Sunday night to settle their resolutions, and would appraise all our friends of them'; Coghill advised on the arguments to put. In addition, Coghill asked Southwell's agent to do the same and to distribute

²²² *CJI(II)*, pp.105, 129

²²³ *CJI(III)*, pp.496-97

²²⁴ *Coghill Letters*, no 30 (To Edward Southwell, 4 Jan 1727/8); Hayton points out that Nutley's career had been 'compromised by his own high Toryism and association with the Tory ministry in Ireland 1711-14' (fn 150). The petition was presented a week later on 11 Jan 1727/8 detailing the facts.

²²⁵ *Coghill Letters*, no 31 (To Edward Southwell, 9 Jan 1727/8)

²²⁶ *Coghill Letters*, no 31

²²⁷ *CJI(III)*, p.497

copies of the petition.²²⁸ The other side in the dispute, the Hill family,²²⁹ requested a postponement to allow witnesses to be summoned (and arguments and forces marshalled).²³⁰ Singleton was at hand to see this off. In the event the case was not heard on the scheduled day (25 January) as the main business went on until 4 pm but part of the case was heard on 26 January. There were several further twists and turns and, to safeguard the petitioner's position, it was essential to have someone in the House watching and ready to react.²³¹ Behind the scenes the energetic dean was doing 'what is most effectual for [Southwell's] service [he is] a solicitor of votes, and ready to concert measures with [Southwell's] friends how to proceed, on what may arise on the debates'.²³² Also behind the scenes the Hills sought to negotiate a compromise with Southwell's friends. In the event the Hills were divided and the case concluded on 5 February, when on a relatively close division (74-66) in a moderately full House—Ralph Gore and Thomas Trotter acting as tellers for the Southwell camp—found for Southwell with the sub-sheriff carrying the bulk of the blame, and being reprimanded by the House on 14 February.²³³ To navigate the process not only were political networking skills required but also the specialised expertise and patience to anticipate and manage the procedures. (The nearest analogy appears to be that of the courts with the need for good preparation, much waiting around and being ready to fend off the expected and unexpected

²²⁸ *Coghill Letters*, no 34 (To Edward Southwell, 25 Jan 1727/8)

²²⁹ While this account focuses on Southwell's side of the dispute, the Hills' approach was similar: they may have used a lawyer MP, Richard Bettesworth, who was later to become Second Serjeant and they even had a clerical supporter, the bishop of Meath, brother of the high sheriff, who opposed the compromise.

²³⁰ *Coghill Letters*, no 35 (To Edward Southwell, 27 Jan 1727/8)

²³¹ The entries in the *CJI* show the degree of proactive and reactive management that was required:

11 Jan	petition presented and the high and sub-sheriffs summoned;
24 Jan	House ordered the clerk of the crown to produce the returns for Downpatrick 'since the Revolution'; House debated a motion for the sheriffs' attendance tomorrow (adjourned);
26 Jan	House resumed the debate on the motion for the sheriffs' attendance (who were at door), the petition read and ordered to be heard at the bar;
2 Feb	sub-sheriff petitioned confessing misbehaviour and asked the House to discharge the order to hear the petition at the bar; the House refused and ordered him into custody;
5 Feb	case heard at the bar (counsel for both sides was heard and witnesses examined); high sheriff was arrested by a bailiff (on an unrelated matter), he and the bailiff were called to bar; the bailiff was taken into custody; House, on a division (74-66), found for the petitioner;
6 Feb	high sheriff petitioned expressing regret and was released paying fees;
12 Feb	sub-sheriff petitioned expressing regret; and
14 Feb	sub-sheriff was brought to the bar, reprimanded and released paying fees (and the bailiff was ordered to be released).

²³² *Coghill Letters*, no 34 (To Edward Southwell, 25 Jan 1727/8)

²³³ *Coghill Letters*, no 36 (To Edward Southwell, 1 Feb 1727/8), *CJI*(III), pp.516, 524

and seize opportunity.) Coghill, Gore and Singleton used the same skills and methods as 'undertakers' for the king's business. The striking feature is behind the scenes management and not, to contradict the view of Ihalainen and Palonen, reliance on rhetoric and public debate.²³⁴ The methodology was not exclusive to the Speaker/undertaker and government business but permeated the processes of the Commons.

The second petition examined concerned legislation. Sir John Perceval recorded his exchanges with Thomas Hodder, who was pressing a petition for a bill against clerical plurality and, in particular, he objected to bishops' power to dispense with residence requirements. Perceval's initial response in November 1711—after the transmission recess—was that the timing was wrong 'for neither was it for your service nor my credit to offer at leave to bring in a new bill when everybody knows a second session of parliament never allows time for it '. He showed the proposal to the bishop of Cloyne, whose diocese was the focus of Hodder's concern, but then apologised for doing so without Hodder's consent excusing himself by pointing out that

the bishop would have just reason to take ill of me, that I did not first acquaint him with it, nor even then it is possible to have kept it a secret from him, since nothing that is transacted within our walls is so nor can I conceive why it ought to be so.

Perceval also made the point that parliament had previously rejected bills against plurality²³⁵ because of the nature of the country and recommended that Hodder take the matter up directly with the bishop. Hodder replied that no offence had been taken and he had showed the petition to a Mr Mead.²³⁶ Having taken the point on timing Hodder contacted Perceval early in the 1713 session enclosing a petition which he asked Perceval to present to the new parliament, 'who I hope will endeavour to get such a bill to pass as will oblige residence by ... parsons and curates'. Perceval replied frankly explaining the political realities:

this is a matter of such high importance and will meet with such difficulties in its passage that it is necessary I should be perfectly well acquainted with your proceedings hitherto, and your hindrances you have met with in prosecuting your just and reasonable design... Before I shall be able effectively to serve you; you cannot be ignorant that if proper methods are taken step by step, there is a course already settled by law, by which you may attain your end. It will be very hard to prevail upon a parliament to make a new law that must be general purposely to help a particular case, for which former laws have prescribed a sufficient remedy.

²³⁴ Ihalainen and Palonen, 'Parliamentary Sources', pp.21-23

²³⁵ Bill no.5144 (*ILD*) shows heads failed in 1697 in the Commons.

²³⁶ *BL*, *Add.* 47,026, ff.85 (30 Oct 1711), 88 (3 Nov 1711), 93 (21 Nov 1711)

Perceval explained that he did 'not urge this to discourage your pious aim' but as a course more likely to succeed than a petition and bill. He continued: 'I have gone so far already in your service as to lay your petition before all the bishops, who are to meet next Monday and I have not discouraged any ... who are not willing to see your satisfied'. He said that the bishop of Cloyne, to whom he had spoken that morning, said he had powers to deal with the situation.²³⁷

In contrast to the first case, no money changed hands. Perceval was personally sympathetic to Hodder's objective and was prepared to find a solution to the problem and to explain the parliamentary process. He regarded legislation, if not the last resort, certainly not the first remedy and he was conscious of the need to point out the prospects for legislating.

Private legislation affected individuals and private rights and property. It followed that those affected should be notified and be given the opportunity to make representations. The Irish procedures for the initial consideration of private legislation followed the spirit of English procedures, the essence of which was a quasi-judicial process with, for example, parties directly affected by the legislation given notification and opportunity to make representations. Who managed such notification for heads, and how they did it, was subject to some confusion in London. In August 1697 Secretary of State the duke of Shrewsbury informed the Irish lords justices

the ancient custom has ever been for all such persons as wish private bills passed in Ireland to first petition the King in council for leave to offer such a bill, and his consent has always been the foundation of such bill. By this means time is given to all parties to apply, and not to be surprised by too hasty proceedings. No doubt you have this time prevented this, by transmitting no private bills without first hearing all the parties concerned.²³⁸

This 'ancient usage' would have required a petitioner to start with the English Privy Council and would have added its approval before the heads of bill process could start. In response the Irish Privy Council questioned the claim:

that upon receipt of their excellencies' pleasure concerning the manner of beginning private bills that have their rise at the [Privy Council] we have directed as there has been occasion that the party by whom such bill is desired should first make his application in England for leave to have a bill prepared here, but we cannot ... find that method to have been practised hitherto.²³⁹

²³⁷ *BL, Add. 47,027, ff.55-57* (26 Nov 1713)

²³⁸ *SP, Entry Book 2, p.176 (CSPD: William III, 1697—2 Aug 1697)*

²³⁹ *SP, 63–359 no.119(stamped 254)* (Lords justices to Secretary of State Shrewsbury, 14 Sep 1697); the reply from the Clerk of the Houses enclosed an undated 'Certificate by W. Palmer, deputy clerk of the Privy Council of

The government in London pulled back, telling the Irish lords justices that it had 'not meant that the petition must be presented to the king in Council' but in view of what the Irish Privy Council had explained it allowed the private bill under consideration to be transmitted.²⁴⁰ The procedures for notifying, and considering representations from, affected parties therefore fell to the Irish Privy Council. With the growth of private legislation originating in the Commons the English Privy Council's retreat allowed the initiative for the legislation to remain in Dublin, though the Irish Privy Council had a significant role. In 1705 Ormond said, with some protecting of himself: 'there are some private bills, which I must humbly recommend to Her Majesty's favour having, as I am informed, been well considered and generally by the consent of the parties'.²⁴¹ In 1710 Wharton went into detail to Dartmouth to explain that 'in all cases of private bills the persons at whose request they pass the Council here employ agents to solicit them on the other side, and ought to be enabled to satisfy the Council of England as to the objections which may be made against them'. He said that he could not comment on 'matters of fact' as regards heads and 'therefore if the parties concerned did not attend or counter objection, the British Council should proceed [as was] most just and proper'. He added that he had 'given notice to the persons concerned in each of those bills of the objections that are made against them'.²⁴² In other words, the Wharton administration was neutral and offered no assistance.

How notice was given to interested parties was touched on in a letter from Carteret to Newcastle in 1725 concerning an English private bill to reverse an outlawry. He said that the bill was not in the Protestant interest in Ireland, which indicated why it had started in England, and that, although 'the petitioner has given notice here, by posting up papers on the Courts, that application would be made for such an Act', the papers had only been posted up that term which was not sufficient for the 'many persons who might think themselves affected ... and might have made proper

Ireland', who did not 'find, among the books and papers belonging to the Council Chamber any direction by letter or otherwise, for the parties concerned in any private bill to be prepared by the government and Council of Ireland to first petition the King and Council in England for leave to have such bills drawn'. (*SP*, 63–359 no.119i(stamped 256) (11 Sep 1697)).

²⁴⁰ *SP*, Entry Book 275, p.280 (*CSPD: William III, 1697—23 Sep 1697*); Bergin, 'Irish Legislative Procedure', p.110, comments that the 'surviving evidence supports the position of the Irish government, and there is nothing suggesting that the many private Irish bills transmitted from Dublin to the English privy council had previously been the subject of petitions to the king'.

²⁴¹ *SP*, 63–365 f.157(stamped 172) (Signed by Ormond but text appears to be written by Southwell to Hedges, 29 Mar 1705); see also Bergin, 'Irish Legislative Procedure', p.133.

²⁴² *SP*, 63–366(stamped 35) (Wharton to Dartmouth, 25 July 1710)

application to one or both Houses to have been heard against such a bill'.²⁴³ As well as throwing a light on the notice required, the quote shows that seeking legislation at Westminster did not obviate the need to inform parties in Ireland.

In 1719 when the British Privy Council queried the allegations underpinning a bill for the sale of the estate of Sir Maurice Eustace to meet debts, Bolton, in contrast to Wharton, explained that:

the allegations in the private bills transmitted were not only proved to my satisfaction as well as the Council, before the bills were sent from hence, but that in our opinion all proper parties were consenting thereto, that is, all those whose consent we thought necessary; and [when queried by the British Privy Council] the facts alleged in the bill for sale [of the] estate have been examined again by a committee of the Council in the presence of Mr Cheetwood who is married to one of the daughter's of Sir Maurice Eustace and such other of the creditors who oppose the passing of the bill ... it was mine, as well as the unanimous opinion of the Council, that the consent of the said Cheetwood and of those dissenting creditors was not necessary, the bill being calculated to enforce them to do justice to the other creditors ... Cheetwood and some creditors ... have hitherto very artfully obstructed. The Council has therefore given their opinion, that the said bill should be laid before the parliament.²⁴⁴

In response to a further query from the British lords justices whether private bills had been properly approved by the Irish Privy Council in October 1719 Webster told Delafaye in London: 'I think the sending over the bills implies that consent ... as well as that they carry with them an authority too great to admit of any other interpretation.'²⁴⁵

In responding to the questions from London the Irish Privy Council did not refer to scrutiny carried out by the Commons but instead cited that of the quasi-judicial Privy Council, with the law officers in attendance. The Journals indicate, however, that committees delegated to consider petitions for heads of bills operated under instructions from the House to check that affected parties were aware of the proposed legislation.²⁴⁶ In the 1690s the House itself often considered whether other parties were affected before deciding what instructions to give a select committee.²⁴⁷ While there is no evidence as to what certification the Commons required, it appears that interested parties were

²⁴³ SP, 63–385(stamped 113) (14 May 1725); see also SP, 63–387(stamped 67) (Carteret to Newcastle, 25 Feb 1725/6). The Westminster Commons had a standing order that bills relating to Ireland required a term's notice (*HoP(1690)(I)*, pp.364–65).

²⁴⁴ SP, 63–378(stamped 92) (To British lords justices, 17 Oct 1719)

²⁴⁵ SP, 63–378(stamped 81) (15 Oct 1719)

²⁴⁶ For example, on 5 Sep 1695 the House referred a petition from Sir William Domville for a heads enabling land to be mortgaged to a select committee, to draw up the heads but with an instruction 'that notice first be given to all persons in remainder' (*CJ(II)*, p.52). On 17 Sep 1695, the committee reported back that some heirs were 'in England and other remote parts' and so the committee sought permission to proceed without notifying all; the House agreed (p.63).

²⁴⁷ For example, *CJ(II)*, pp.157–58 (31 July 1697); in this case the petitioner was a countess, which may be the reason for the expedited process.

aware of the request for legislation. The relatively short time heads took in the Commons would have been insufficient for this to have been carried out in parallel with the head process. Instead, notification would have been in advance of the petition. In November 1703 the Commons reiterated: 'That no heads of any private bill be brought into the House but upon a petition preferred to the House, nor until the matter of such petition, and the nature of the case, have been reported a committee, with their opinion thereon'.²⁴⁸ As many committees were appointed without the power to send for persons, papers and records,²⁴⁹ it may be that their job was to check that the necessary documentation was supplied rather than probe merits in depth. Those who were adversely affected by proposed legislation were aware, as the Journals record counter-petitions usually submitted in time to be considered during the heads process.²⁵⁰ That said, committees nearly always reported back in favour of the petitioner and the House instructed the same committee (or Members from the committee) to prepare and bring in the heads of a bill.²⁵¹ This of itself may be evidence that many private bills were the product of negotiations and the ones that generate correspondence are those where there was no deal or it broke down.

The Irish procedures did not fully follow the Westminster procedures, which had greater focus on the House of Lords which provided judicial oversight. In addition, the Westminster Commons rapidly developed a procedural framework—which included special provisions for private bills that applied to Irish property—which between 1685 and 1710 was subject to over 20 standing orders.²⁵² The reasons for the difference were, first, the much smaller volume of private legislation in Ireland and, second, that the Irish House was dealing with draft legislation against a tight timetable and so did not require the same stringency. Moreover, the draft legislation was scrutinised by the Irish and English/British Privy Councils, where it was reviewed by law officers. This is not to say that the heads process was a smooth track. As Table 18 below indicates, the success rate for petitions seeking private legislation between 1692 to 1730 was 35%, although the rate improved by the 1720s. The changes in 1703 appear to have made a difference as the

²⁴⁸ *CJI(II)*, p.365 (12 Nov 1703) The change copied English practice—see Appendix 6.13.

²⁴⁹ For example, *CJI(II)*, pp.81, 507

²⁵⁰ For example, *CJI(II)*, pp.98, 128; Bergin, 'Irish Legislative Procedure', p.35, points out that 'Petitions for heads of private bills ... had a higher success rate than other petitions. Yet some of these failed too. Such failure may in some cases be connected with the appearance of hostile counter-petitions, while in others the journals offer no clues'.

²⁵¹ For example, *CJI(II)*, p.524 (5 Aug 1707); *(III)*, p.599 (15 Nov 1729)

²⁵² Sheila Lambert, *Bills and Acts: Legislative Procedure in Eighteenth-century England* (Cambridge, 1971), pp.84-91

success rate increased from 19% in the 1703–04 session to 45% in the 1705 session; but this is superficial, as the number of petitions more than halved and the success rate fell back in the two following sessions. One point is clear, however, that, if a private bill emerged after the transmission recess, it was likely to achieve royal assent,²⁵³ which underlines the formality of the bill process after the transmission recess.

Session	Petitions seeking private bills	Private Acts from Commons petitions	% successful
1692	3	0	0%
1695–97	31	9	29%
1698–99	5	0	0%
1703–04	26	5	19%
1705	11	5	45%
1707	14	5	36%
1709	19	4	21%
1710	6	2	33%
1711	5	3	60%
1713	0	0	0%
1715–16	5	3	60%
1717	3	1	33%
1719	9	6	67%
1721–22	10	0	0%
1723–24	13	6	46%
1725–26	11	7	64%
1727–28	3	2	67%
1729–30	5	4	80%
Total	179	62	35%

Table 18 Outcome of petitions seeking private legislation

On the overall content of petitions, the 1695–97 session saw a pattern of petitions which followed that of earlier parliaments with 201 covering everything from debtors seeking protection to complaints against local officials. Thirty-one of the 201 sought (with another 10 aiming to frustrate or amend) private legislation (and nine had the same purpose for public legislation). By far the largest category seeking private legislation was the petitioner seeking to sell, mortgage or settle ownership of land. But over the next 15 years a pattern emerged. The figures in Appendix 6.23

²⁵³ The legislation originating in the Irish Commons and classed as 'personal' on the *ILD* is used as a proxy for private acts. Between 1692 and 1730 46 items are listed as not enacted (out of 74) and of these 30 failed to leave the Commons as heads; 10 were rejected by the English/British Privy Council; and four by the Irish Privy Council. This means that only two were rejected at the bill stages: one by the Commons and one by the Lords.

show a decrease in the number of petitions for private bills over the period from 1695 to 1730, though with a revival in the early 1720s.

An analysis of the legislation sought in 1703–04—set out in Appendix 6.24.2—shows there were 26 petitions seeking private legislation—in contrast to the sessions in the 1690s all the petitions were received within six weeks of the opening, which was the pattern to the end of the period under consideration. Of these five resulted in legislation, three were rejected outright and the rest faltered during the legislative process.²⁵⁴ Five heads were subject to counter-petitions and as none of these made it to the statute book lodging an objection had effect. Persistence by petitioners could pay off²⁵⁵ but it eluded others such as Jeffrey Blake.²⁵⁶ While not a hard and fast rule, petitions submitted early in the session made more progress than those submitted later. Lawyers had no monopoly on handling petitions and when they undertook their management—defined as those chairing reviewing and drafting committees—they did not fare better than non-lawyers in achieving successful legislation. The table in Appendix 6.24 indicates that in each session there was a coterie of men of business—fewer than 20 MPs most session—who *managed* private bills through the Commons. As noted with Southwell's petition, there was no bar on employing office-holders to take a bill on—and some advantage in that they had experience in taking forward other bills including private bills as well as contacts—but it was no guarantee of success. The statistics for bills handled by individual MPs are too low to allow firm conclusions to be drawn. But on the basis of the *management* of the two with the largest portfolios some observations can be offered, Ralph Gore between 1710 and 1727 *managed* 22 bills in total and appears relatively successful with 14 bills reaching the statute book. But on personal private bills he achieved a lower success rate of three out of six. In contrast, William Conolly had a much poorer overall success rate (8 out of 31 between 1703 and 1713) but on private bills he achieved a success rate of five out of nine. (Conolly was operating in a harsher political climate and many of the heads he was shepherding did not make it though the privy councils.) Finally, from the limited correspondence available it

²⁵⁴ 14 failed in the Commons, one was rejected by the Irish Privy Council and three by the English Council.

²⁵⁵ See *ILD* for bills for Eustace, Blundell, Rawdon and Aylmer.

²⁵⁶ See p.117 above.

appears that the chairmen's responsibilities did not extend beyond the Commons;²⁵⁷ agents took over when the bills went to London.

One sub-category of petition was that seeking legislation with an explicit sectarian dimension—typically, to prevent a Catholic dis inheriting a Protestant or favouring inheritance by a Protestant. The 1703–04 session—which saw the enacting of the Act to prevent the further growth of Popery—was the high watermark with seven petitions.²⁵⁸ Yet, despite many being introduced early in the session, the success rate was low with only one enacted.

- Two were rejected by the English Privy Council (to give context, it rejected five heads in total out of 74 that had their rise in the Commons in the session).
- One was rejected by the Irish Privy Council (it rejected six out of the 74).
- The other three failed in the House of Commons.

Four that failed were subject to counter-petitions though in two cases the House refused to hear the petitions—the petitioners appear to have been Catholic—and both heads were subsequently rejected by the English Privy Council.²⁵⁹ Although the numbers for other sessions are small, this pattern was not atypical: petitions seeking explicitly sectarian personal benefit were considered by the House but were not bound to succeed, not least because of a brake imposed by the privy councils. A series of petitions from Chichester Philips MP illustrates the pattern. The first sought leave to bring in heads to prevent the Catholic heirs of Sir Simon Eaton (George and Martha Matthews) excluding him from a remainder. On presentation on 21 September 1703 the House without any scrutiny ordered Henry Tenison to prepare and bring in a heads.²⁶⁰ The heads were presented on 30 September but by then had run into problems as the Matthews objected and the heads were sent to a committee headed by Sir Richard Levinge with an instruction to hear interested parties and send for papers persons and records.²⁶¹ On 25 October Coghill reported from the committee that it had heard counsel on behalf of the Matthews and in favour of the

²⁵⁷ Neither correspondence in *Middleton Letters* nor other surviving correspondence shows *managers* lobbying in support of bills in England. Many were, however, Irish Privy Councillors and would have been able to make representations in person to that body.

²⁵⁸ For example, see Blake case p.117 above. The Popery Act by skewing inheritance rights against Catholics obviated some of the demand for private acts and bypassed the need for privy council approval.

²⁵⁹ Two concern the Matthews and Blake heads listed in Appendix 6.24; the full circumstances are not clear from the *CJI* but it may have been that the petitioners had not been heard in committee as the House gave no instructions to the committee to hear all interested parties.

²⁶⁰ *CJI*(II), p.321; Tenison also brought in the heads which led to the Act to prevent the further growth of popery (2 Anne c.6).

²⁶¹ *CJI*(1st edn)(III), p.29; the committee had 11 members including Tenison; the committee was enhanced on 11 Oct when the attorney general and others were added (*CJI*(II), p.333).

petitioner and presented a bill which was agreed by the House and sent to Ormond. A petition from the Matthews to be heard at the bar before the heads were agreed was rejected.²⁶²

Presumably in the face of further representations from the Matthews the English Privy Council rejected the bill.²⁶³ In the following session the proceedings were largely repeated, though with more Protestant parties making representations and no recorded representations from the Matthews.²⁶⁴ Again the English Privy Council rejected the legislation.²⁶⁵ Without the detail of the representations and any subsequent changes, any conclusions must rest on the records of the process, which show that: (i) the parties were informed of the process and had opportunity to make their cases; (ii) Catholic landowners engaged with the parliamentary process; (iii) the issues were reviewed by the law officers; (iv) the Commons backed the Protestant interest; (v) and the Privy Council in London came down on the side of the Catholics opposing the legislation. The Protestant bias of the Commons was underlined when on 2 October 1703 the House ordered that 'it be an instruction to all committees appointed to prepare heads of a bill to prevent persons from being disinherited upon account of being Protestants, to insert the like clauses in such heads of private bills'.²⁶⁶

The trends and pattern identified in the 1703–04 session developed and crystallised. For example, in the 1707 session of 14 petitions for private legislation five reached the statute book. In the 1711 session (see Appendix 6.24.3) there were five petitions seeking private legislation; and for the first time in a session none appears to have had an explicit sectarian dimension. All the petitions were received before the transmission recess and three made it onto the statute book. By then the procedure was standardised with the instruction clear that the committee had to consider the allegation in the petition and, if not fully supported or opposed, it was empowered to send for persons, papers and records. Most of those who chaired committees on heads were lawyers. The House often appointed the same committee to draft and bring in the heads over time it was no longer usual for the full 'considering' committee to draft the heads of the bill. Instead that task was

²⁶² *CJI(II)*, p.346

²⁶³ Bill no.2687 (*ILD*); Matthews was a relative of Ormond, who lobbied privately on his behalf (see p.215 below).

²⁶⁴ *CJI(II)*, pp.426, 440, 444, 448;

²⁶⁵ Bill No. 2687 (*ILD*)

²⁶⁶ *CJI(II)*, p.326

often given to three Members, who had been on the original committee, so the process was streamlined further.

The editor of the *HoP* (vol.1) states that it was cheaper and more straightforward to seek a private bill applying to Ireland at Westminster than to seek legislation in the Irish parliament.²⁶⁷ In addition, when the Irish parliament was not sitting and a private act was required, the only legislature available was Westminster.²⁶⁸ The work of Hoppit and Innes shows that the volume of private legislation undertaken by the Westminster parliament increased substantially after the restoration of Charles II and that increasing success rates spurred more petitions. This legislation at Westminster too was dominated by inheritance, guardianship and the purchase and sale of land,²⁶⁹ all of which categories had a ready market in Ireland. Westminster did not, however, establish either a monopoly or dominance in Irish cases. The figures in Appendix 6.10 show that the Irish parliament's share of enacted private legislation predominated most years from 1703 and that the success rate improved after the 1690s. First, as Hoppit has pointed out for Westminster, better scrutiny meant that hopeless cases could be killed off early.²⁷⁰ Second, once the pattern of a session in two parts emerged in Dublin, those seeking private legislation soon realised they had to submit the petition early in the first part. Third, although there were overlaps between the private legislation enacted by both parliaments, there were differences. The social group covered by the legislation enacted at Westminster appears higher than that achieved through Dublin;²⁷¹ legislation aiming to protect Protestant creditors or heirs would originate in Dublin;²⁷² and legislation reversing outlawry had a fairer wind in London²⁷³—the Irish House composed of those holding forfeited estates was much less likely to agree a measure that impinged on the land settlement.²⁷⁴ One category of petitioner that might be considered a candidate for recourse to Westminster was trade

²⁶⁷ *HoP*(1690)(I), p.530

²⁶⁸ 40 private acts were enacted at Westminster between 1699 and 1703; see Appendix 6.10 and *HoP*(16900(I), pp.530-535.

²⁶⁹ Hoppit, *Failed legislation*, p.9

²⁷⁰ Hoppit, *Failed legislation*, p.16; petitions that were sent to the committee for initial examination and never re-appeared may account for this category in the Irish Commons.

²⁷¹ An electronic search of the House of Commons parliamentary papers for enacted private legislation with Ireland in the title returned 15 acts, 11 concerned English or Irish peers and an Irish bishop.

²⁷² For example, *An act for securing the debts owing to the Protestant creditors of Colonel John Browne* (7 William III c.2 (private)), *An act to prevent the disinheriting of Captain Garret Coghlan, a Protestant in her majesty's service* (2 Anne c.7 (private))

²⁷³ There is one example: *An Act To Reverse the Outlawry and Attainder of Christopher Lord Baron of Slane, in Ireland* (7 Anne c.15 (private))

²⁷⁴ See p.195 above.

associations, such as felt-makers and physicians, who failed to secure legislation from the Irish parliament, to enhance or protect their profession by replicating English legislation.²⁷⁵ Their reasons for not seeking legislation at Westminster can be deduced from the physicians' petition in 1695:

several powers and jurisdictions have been confirmed to the College of Physicians in London by divers acts of parliament in England; that the Members of parliament being the representatives of the whole kingdom, can best judge what will contribute to the public welfare thereof, which, being also the design of the petitioners, they humbly offer there are said Charter to the examination of the [Irish] House, ... And therefore praying the House to prepare heads of a bill for confirmation of the aforesaid charter, with such provisos as shall be thought fit ... for the most effectual accomplishment of the ends of the said charter.²⁷⁶

Having used this *patriot*-tinged flattery it would have been difficult, and detrimental to their reputation, to seek legislation at Westminster.

Dublin had other attractions. As noted above²⁷⁷ its clerks' fees were lower than those at Westminster and they may have been paid at a later stage—after the bill returned from London—when success was likely. The Irish process starting with a petition for a heads of a bill, rather than a bill, may have allowed a lower threshold of parliamentary scrutiny than at Westminster, though the review by two privy councils meant that it would be correctly drawn. John Bergin has pointed out that 'progress of some petitions seeking private legislation was very smooth: a petition was presented, a select committee immediately appointed to prepare heads which were duly presented and passed', while other had 'erratic' courses.²⁷⁸

As seen with the Physicians, petitions to the Commons were not confined to personal private legislation. Where the petition raised broader issues affecting a wider group the House had a wider range of procedural options. Although peremptory rejection was possible,²⁷⁹ on the whole these petitions were sent down one the following routes:

- 1) to a select committee set up with powers to investigate,²⁸⁰

²⁷⁵ *CJI*(II), pp.32, 117, 245; see also Bergin, 'Irish Legislative Procedure', pp.34-35.

²⁷⁶ *CJI*(II), p.117

²⁷⁷ See p.47 above.

²⁷⁸ Bergin, 'Irish Legislative Procedure', p.36

²⁷⁹ For example, *CJI*(II), p.59 (13 Sep 1695), when the House ordered a petition from the citizens of Dublin against the taking of the 'little oath' to lie on the Table.

²⁸⁰ For example, *CJI*(III), p.596 (12 Nov 1729), when the House sent a petition from the Guild of Dublin Merchants complaining about the inadequacy of the laws against smuggling to a select committee with the power to send for persons, papers and records, and it allowed all MPs to attend and speak.

- 2) to an existing committee (even if the link was tenuous) to be bundled up with legislation that was underway,²⁸¹
- 3) to a committee of the whole House,²⁸² or
- 4) given leave for a heads to be brought in quickly.²⁸³

Where Catholic petitioners against legislation, they often received short shrift. Chief Secretary Southwell in a letter to Nottingham explained that when they petitioned against the popery bill: 'the Catholics are to be heard pro forma'.²⁸⁴ Despite the quality of the case put forward, it had no effect on the bill.²⁸⁵ The pattern was repeated in 1719 when a group of Catholic merchants petitioned against another popery bill. The Commons gave consent for them to be heard by counsel when the bill was in committee of the whole House but without effect as the bill was returned to the House unamended and was passed unanimously before being sent to the Lords.²⁸⁶ In procedural terms the incident shows again a Catholic group with resources engaging with the parliamentary process but to little effect in the Commons because petitions against bills that had already been through the House, as opposed to heads of bills, had little effect and because of the sectarian bias of the House.

More public legislation was initiated by motion rather than by petition. The question put was that leave be given to bring in heads of a bill for a specific purpose.²⁸⁷ If answered in the affirmative, the House then gave leave to a Member, a group of named Members or a formally constituted committee, to prepare and bring in the heads.²⁸⁸ In the 1720s of the 176 bills that took their rise in

²⁸¹ For example, *CJ*(III), p.425 (25 Nov 1725), a petition from the Dublin chair-carriers for more licences to be issued was referred to a select committee examining the state and condition of the Dublin workhouse.

²⁸² For example, *CJ*(II), pp.590-91 (26 May 1709), when a petition from three Dublin merchants complained that certain trade lay 'under discouragement for want of proper regulations'. Such a committee provided—as Scobell, *Memorials* noted, p.49—'opportunity for fuller debates, for that at a Committee the Members have liberty to speak as often as they shall see cause, to one Question'.

²⁸³ For example, *CJ*(II), p.331 (9 Oct 1703), when the House ordered two MPs to draft a heads of a bill to provide relief to prisoners in the Marshalsea; and (III), p.429 (1 Dec 1729), when in response to a petition from the College of Physicians 'to prevent abuses of the necessary art of physic ... by mountebanks and empericks' the House gave leave to five MPs to prepare and bring in a heads of a bill.

²⁸⁴ *SP*, 63–364 f.64(stamped 65) (Southwell to Nottingham, 19 Feb 1703/4)

²⁸⁵ Chief Secretary Southwell recorded: 'Sir Toby Butler was their chief counsel, who made a very ingenious speech, and omitted nothing that was for the advantage of his cause. He examined every particular cause of hardship, and the main argument was that the bill was a breach of the Articles of Limerick. Sir Stephen Rice spoke also to the same purpose, but, not having taken the oaths, could not speak as Counsel, but as a petitioner. After they had withdrawn, the committee considered the bill paragraph by paragraph. The arguments of the Catholics were answered, and the clauses against the Papists were passed unanimously' (*SP*, 63–364 f.75(stamped 78) (Southwell to Nottingham, 26 Feb 1703/4)).

²⁸⁶ *CJ*(III), pp.233-35 (29–30 Oct 1719)

²⁸⁷ For example, *CJ*(III), p.422 (19 Nov 1725)

²⁸⁸ Bergin, 'Irish Legislative Procedure', pp.18-20, points out, with reference to the period before 1705, that 'the initiation of heads by an order granting leave for their introduction, and directing one or more named members to

the Commons just under half made it into law (87, out of 113 enacted bills). With private bills (22) removed, Table 19 shows the stages at which the remaining 67 pieces of public legislation failed.²⁸⁹ A third failed because they did not progress to heads and a quarter failed in committee, underlining Hoppit's point about weeding out the hopeless.

Stage heads or bill reached	Number
Leave given for heads	23
Committee	16
Report	1
Irish Privy Council	9
British Privy Council	12
Commons	5
Lords	1
Total	67

Table 19 Stages reached by failed public legislation in 1720s

4.9 Drafting legislation

The arrangements for drafting Irish bills changed radically in the 30 years after 1692. The exchanges on bills between Dublin Castle and Whitehall ahead of the opening of the 1692 parliament have the characteristics of a 'top-down' process with two bureaucracies agreeing the legislative programme themselves with some soundings taken amongst those who were likely to sit in the forthcoming parliament. On 18 September Sydney informed London that he was 'endeavouring to get some money for their Majesties of the parliament here ... I have good reason to believe I shall succeed in it, having proposed it to several Members of the House of Commons, and ... to the Council, where it was received as well as I could wish'.²⁹⁰ Sydney continued his thorough preparations. On 24 September he held off sending two supply bills to London: 'it being thought advisable to have a business of this nature well weighed and considered before it is brought into parliament, that it may not meet with any rubs or disappointment there'. He had a committee of the Privy Council 'appointed to consider of the best ways and means of raising' supply. It agreed the best method for raising the money was a supply for two years, though they were going to play this down as it 'may beget a jealousy in [Members] as though after this ensuing

prepare them, was much the commonest method. The appointment of two members was especially common, occurring over forty times. The appointment of a single member, or of three members, was also frequent: there were over twenty-five instances of each'. He adds that, 'apart from those cases where petitions were presented, the journals rarely reveal what moved the houses to order the preparation of heads ... Many orders, especially those which appointed committees without saying anything of "leave", must represent the conclusion of debates '

²⁸⁹ Data from *ILD*

²⁹⁰ *SP*, 63–354 f.144 (To Nottingham)

session ended, they were not to meet again till after the expiration of the two years'.²⁹¹ This open approach gave notice of what was intended and allowed opponents to organise. The 1692 parliament crashed on supply.

In 1697 the Irish lords justices and the Privy Council were deciding upon and drafting a slate of bills ahead of the reconvening of the Irish parliament, though London retained detailed scrutiny and approval as well as suggesting bills.²⁹² The corollary of this change was that from the 1690s bills sent from Dublin required breviate (explanatory notes), advising on the technicalities and handling.²⁹³ In 1703 Ormond and Southwell, Irish landowners, show the process evolving, though they pressed more for specific measures than later lords lieutenant:

8 December 1703: The Workhouse bill now sent over was encouraged and promoted by the Duchess of Ormond, and much followed for that reason;²⁹⁴

8 December 1703: Southwell recommended Sir Hans Hamilton's bill for sale of his estate, 'I know his relatives entirely consent thereto. He is my old schoolfellow and acquaintance, and stuck by us very well in the House of Commons';²⁹⁵

16 December 1703: on a bill in favour of Colonel Power, 'he has obtained such ample certificates of good behaviour in former times that the Council thought fit to countenance his bill. The lord lieutenant recommends it';²⁹⁶

16 December 1703: Ormond recommended the case of Captain Mathews, his near relation: 'He is a Roman Catholic, but married a Protestant, and she has always remained so. The enclosed clause was particularly framed to deprive him of the benefit of any settlement his wife may make upon him, and is inserted in the Bill of Popery sent over. His Grace was not anxious to appear in the matter on this side for fear of giving ground for a charge of what people are so apt to call "favour to Papists"; but as it seems very hard to make a single instance, it may be easy to drop out the clause on that side'.²⁹⁷

The English lords justices also began to ask the Irish lords justices for their private judgments of the transmitted heads of bills, especially those originating in the Irish parliament, as

it might be too invidious a part to be put upon them, to make all the alterations that may be necessary in bills prepared there, and which come recommended to them as designed only for the public good; but, if their Excellencies were informed how far their lordships

²⁹¹ *SP*, 63–354 f.148

²⁹² *SP*, 63–359(stamped 54; *CSPD translation*); *SP, Entry Book 275*, p.106 (*CSPD: William III, 1697—2 July 1697*)

²⁹³ For example, *SP*, 63–359 no.25(stamped 66-68) (Irish lords justices to English lords justices, 12 July 1697); the bill process outlined in Scobell, *Memorials*, p.41, only required 'If a bill be admitted to be read, the same is to be presented fairly written, without any rasure or interlineation, together with a breviate of the heads of the bill'. Kelly, *Poynings' Law*, pp.142-43, makes the point that British consideration of Irish bills became dependent on what the Irish Privy Council advised and that on occasions the British Privy Council was suspicious that the Irish Council was trying to pull the wool over their eyes by not explaining the full import of a bill or re-sending one which had been previously rejected such as the tillage bill.

²⁹⁴ *SP*, 63–363 no.150(stamped 77) (Southwell to Nottingham)

²⁹⁵ *As above*

²⁹⁶ *SP*, 63–363 no.156(stamped 96) (Southwell to Nottingham)

²⁹⁷ *SP*, 63–363(stamped 96)

approved of what the bills contain, or where they have any doubts or exceptions about them, it would make less uncertainty in the examining those bills.²⁹⁸

Whitehall was becoming used to reviewing Irish bills which took their rise in Dublin. During the 1690s the heads of bill procedure took its final form as a device to circumnavigate Poynings' Law and these changes went in parallel with an assertion of the primacy of the Commons over the Irish Privy Council and a fall in the bills taking their rise there. The period of transition ended in the reign of Anne. Southwell explained to Whitehall that in preparation for the 1703–04 session that a committee of the Privy Council had produced a list of heads, which 'were distributed to the Judges and king's Council to draw up into bills' to transmit in time for a parliament to meet in September.²⁹⁹ The list to which the Council was working survives and is set out in Appendix 6.9. Preparations had started in December 1702³⁰⁰ and show that the Irish Privy Council expected to have a key role in framing both a programme of public bills and the contents of bills themselves. This was a not a token list to meet the minimum terms of Poynings' Law for summoning a parliament. An initial list was reduced to a first tranche which was sent to London in July 1703 with brief explanatory statements.³⁰¹ There then followed exchanges between London and Dublin, in which Southwell provided the thrust of the arguments for the bills.³⁰² Most of the items on the list emerged during the 1703–04 session. Although the Privy Council did not seek to promote all the bills itself, they had a good success rate. Of those which emerged as heads in the Commons all but one were introduced and managed by administration supporters. Many of the bills looked back to the 1690s and were fresh attempts to secure enactment of previously failed legislation.³⁰³ In contrast many of the 74 heads (out of 104 items on the *ILD* for the 1703–04 session) that originated in the House which were not administration sponsored showed the House moving into new areas.³⁰⁴

²⁹⁸ *SP, Entry Book 275*, p.325 (*CSPD: William III, 1697–8 Oct 1697*)

²⁹⁹ *SP*, 63–363 no.10(stamped 447) (To Nottingham, 8 June 1703); James Kelly considers that the English Privy Council tried to exploit the four-year gap since the last session provided a detrimental effect on institutional memory, to bolster its role, and that the opposite occurred as the Commons took advantage of the weakened English executive, to strengthen the heads of bill process. If that is correct, the Irish Council was working closely with the Commons, which is not certain (Kelly, *Poynings' Law*, p.117) .

³⁰⁰ Bergin, 'Irish Legislative Procedure', p.102, points out that the 'programme for the 1703–04 session can be traced back to 29 December 1702, when the lord lieutenant ... instructed the Irish lords justices to consult about bills for a parliament then in contemplation'.

³⁰¹ *SP*, 63–363 no.10(stamped 447), no.16(stamped 410) (26 June 1703)

³⁰² *SP*, 63–363 no.31(stamped 360–63) (Southwell to Nottingham, 22 July 1703)

³⁰³ According to *ILD*, 18 items originated in Irish Privy Council and of these seven were private bills.

³⁰⁴ For example, the heads of bills for regulating servants, for encouraging the consumption of the manufactures of this kingdom, to encourage the making earthenware, for cleansing the channel of Cork harbour, for making the Boyne, Nore and Barrow navigable, to make a canal from Lough Neagh to Newry, for regulating the election of MPs.

By contrast in 1715 the administration was struggling to meet the minimum requirements of Poyning's Law. Archbishop King, protecting the primacy of the Commons on supply, explained to Secretary of State James Stanhope that

it is necessary that the first sessions of parliament should be opened by reading a bill and no bill can be read that has not been remitted from England, there must be a bill for each House so if the recognition bill had been sent to the Commons there had been none for the Lords since money bills cannot be sent there, nor can the Commons open their session with a money bill because before any such bill be offered there must be a motion for a supply [and] voted in a committee of the whole House and reported and agreed to, we saw no other way to get over this difficulty but by sending over some more bills.³⁰⁵

In 1725 the idea of the administration having a slate of bills had disappeared as Newcastle told the new lord lieutenant, Carteret:

as to the instructions for the measures to be pursued in relation to the carrying on the sessions of parliament ... it has never been the practice to give instructions of that nature, and that it would be impossible for His Majesty's servants here, to judge of those affairs so perfectly, as those who are upon the spot, they leave the conduct of them to your excellency's great prudence and ability; according to what has always been the practice upon the like occasions.³⁰⁶

With a bill originating in the Commons the usual method of preparation was an instruction to prepare heads on a specific subject. Typically a drafting committee consisted of fewer than a dozen Members and often included a lawyer³⁰⁷ and instructions were usually concise but, if necessary, the drafters could be instructed to include a particular provision³⁰⁸ or to consult certain people. In many cases drafting in committee may have been perfunctory as there is evidence that Members proposing legislation already had prepared heads: the Journal recorded that on 25 May 1710 leave was given to bring in the heads of a bill for the better securing of payments on duties and a committee was appointed to draft the heads. Two entries later in the Journal the heads of the bill were presented and referred to a committee of the whole House.³⁰⁹

Throughout the period under examination it was expected that one of the Irish parliament's functions was to review English legislation and to consider whether and how it could be applied in Ireland. In 1695 the Commons appointed a committee 'to inquire what beneficial laws in England,

³⁰⁵ *SP*, 63–373(stamped 148) (Archbishop King to Stanhope, 7 Oct 1715)

³⁰⁶ *SP*, 63–385(stamped 271-72) (Newcastle to Carteret, 13 July 1725)

³⁰⁷ From 1697 these select committees were given, on occasion, the power to send for persons, papers and records (*CJI*(II), p.180). There were attempts to draft heads in committee of the whole House—for example, in Sep 1695 such a committee had several sessions on heads for the recovery of small debts but eventually appointed a select committee, to draft the heads ((II), pp.51ff). Examples of later settled form—(III), pp.12, 123, 321, 608-09.

³⁰⁸ For example, see *CJI*(II), pp.158, 428.

³⁰⁹ *CJI*(II), p.648; confirmed also by Rivet's role in the Blake case (see p.117 above).

[are] not in force in this kingdom' and on 5 September 1695 instructed it 'to consider, what new laws are fit to be enacted in this kingdom, and to draw up heads'.³¹⁰ Such committees became part of the sessional procedures of the Commons.³¹¹ They chime with a theme running through the operation of the Irish House, that of asserting its autonomy and distinctiveness by assiduously copying and adapting English/British models, which were seen as a prime source of fresh legislation for Ireland. Without such a regular legislative update the Irish parliament risked undermining its own purpose as the alternative would have been for more groups to look to Westminster to legislate. (This process of drawing from the English templates also had the effect of curtailing institutional drift both in terms of legislative initiative and outlook.)

In 1707 when the Commons discovered that a clause in a heads prepared by the Lords was missing from the transmitted bill³¹² they set up a committee under William Conolly to investigate, fearing that the change had 'been done by some sinister and indirect means'. The committee inspected the Lords Journal and records. Its report provided detail on how heads were drafted (though this case concerned heads starting in the Lords).

- 1) The heads were designed to replicate English law with the expectation that all the English provisions would apply, except where they were plainly otiose.
- 2) The heads were drafted by lawyers; it appears that in this case the initiative for the legislation came from the judiciary. On instruction from the Lord Chief Justice, a senior judge started drafting and then, when he had insufficient time to complete the work, passed it to his clerk, who failed to compare the completed first draft against the English template. His draft was shown to the Lord Chief Justice.³¹³
- 3) Drafting started before leave for the heads were given; in this case drafting started before the House convened.
- 4) The drafting process was not secretive and at several points suggestions about the content were received and the draft was shown to Conolly, who was planning to bring in similar legislation.

³¹⁰ *CJI(II)*, p.51; for similar later exercise see *(II)*, pp.280, 320-21. The appointment of a committee to review the laws was in line with the approach at Westminster for legislative revision (see Scobell, *Memorials*, p.40). See also Bergin, 'Irish Legislative Procedure', pp.22-25, which shows measures emanating from the committee in the 1690s were taken forward in procedurally diverse forms.

³¹¹ See Appendix 6.3.14.

³¹² For the amendment of the law, and better advancement of justice (6 Anne c.10)

³¹³ The prominent role of the judiciary appears to have feature of the process from the 1690s when the Irish Privy Council held the initiative in drafting legislation (Bergin, 'Irish Legislative Procedure', pp.113-14).

- 5) The first draft was not put before Members. Instead a second draft was prepared for them. Normally the first draft would have been available and checked against the second. In this case the first draft had been lost.
- 6) The committee charged with bringing in the bill did not rubber stamp the draft but compared the draft against the English template, though it failed to notice the significance of the omissions. As such drafts would contain some adaptations; this exercise required more than verbatim checking.
- 7) The lawyer advising the committee was not well prepared; he only obtained a copy of the English Act as he was entering the committee room.
- 8) The heads approved by the Lords had some blanks which clerks filled in before the heads went to the lord lieutenant; normally this would have been done by the clerk who copied out the heads agreed by the House to disguise these later additions or the text as agreed would have been re-transcribed but on this occasion there was insufficient time.
- 9) Checking copies against originals was carried out as a two-person job.
- 10) Amendments were pinned to the originals.³¹⁴

James Kelly has noted that the Privy Council and law officers in London complained frequently about the quality of the drafting of Irish legislation.³¹⁵ Galway explained when sending a batch of bills to Stanhope in March 1715/6 that there had been 'more bills this session of parliament ... since the Revolution' and that as they had been 'generally drawn up by the young Members you cannot wonder that there was more time than usually required to consider and put them into a better form' in the Irish Privy Council.³¹⁶ At the end of this session the Irish parliament had come up with an arrangement to improve drafting (and possibly restrict Privy Council changes), which as the lords justices explained to Stanhope the administration quashed:

Some Members ... moved that to prevent for the future their heads of bills going imperfect out of their hands, they should pass the examination of both Houses, before they were carried to the Council. As this does not appear to break in upon Poyning's Act, and has a show of good intention at least, it was carried almost unanimously in the ... Commons, and many of the Peers gave into it, but was we did not know what consequences might attend such an innovation in their methods of proceeding in parliament, we thought it proper to interpose and prevailed upon our friends in the ... Lords to have it dropped.

We shall now make it our business to get the bills passed, and the parliament prorogued with all possible dispatch.³¹⁷

³¹⁴ *CJI(II)*, p.545

³¹⁵ Kelly, *Poyning's Law*, p.120; see also *SP, Entry Book 275*, p.325 (*CSPD William III, 1697—8 Oct 1697*) and See also Bergin, 'Irish Legislative Procedure', pp.123-25.

³¹⁶ *SP*, 63–374(stamped 163) (22 Mar 1715/6)

³¹⁷ *SP*, 63–374(stamped 285) (15 June 1716)

Southwell also identified volume as a problem when he wrote to London in 1703: 'We will all stick close to the House next week and forward everything ... that is possible. There is a great number of public and private bills. I am sure of the former there is several are not digested enough to pass'.³¹⁸ (The implication is that the private bills were in better order, perhaps because many would follow a relatively standard form.) Irish officials such as Coghill shared London's view on the quality of drafting in the Commons: 'our bills ... are so ill prepared ... that they require much longer time than could have been imagined to put them into form'.³¹⁹ During the 1703–04 session Lord Chancellor Cox identified the problem (as well as indicating that some heads were not drafted before the legislative process started): 'whilst people are fond of their own motions, and though they may be right enough abstracted by themselves, [they] may be nevertheless incoherent with other parts of the bill'.³²⁰ Whether the changes made in London were all necessary is open to doubt from a comment by Secretary of State James Vernon: 'The Council did not meddle with the Irish bills this day, the lord chancellor having been indisposed these two or three days'.³²¹

After 1692 the Commons put in place arrangements to monitor the changes made by the privy councils.³²² On 4 September 1695 the Commons appointed a small committee of five—a sign of work rather than debate—chaired by William Molyneux 'to examine and compare such copies of bills as already are, or hereafter shall be, brought into this House, with the transmissions thereof out of *England*'.³²³ (Such a committee was appointed in nearly every subsequent session and became a distinctive feature of the Irish House.)³²⁴ How effective the Molyneux committee was is open to question. It was appointed at the beginning of the session—perhaps expecting a rolling programme of bills crossing the Irish Sea. A new committee of four, which did not include Molyneux, was appointed on 4 December when bills that had started as heads began to re-appear, in order to examine engrossed bills against the 'original transmisses'.³²⁵ On 7 September 1697 the House added Members to the 'committee appointed to examine engrossed bills by the

³¹⁸ *SP*, 63–363(stamped 14) (Southwell to Nottingham, 13 Nov 1703)

³¹⁹ *Coghill Letters*, no.66 (To Edward Southwell, 22 Jan 1729/30)

³²⁰ *BL*, 38,155 f.11

³²¹ *SP*, William and Mary 8, no.27 (*CSPD: William III 1697–21 Sep 1697*) (Vernon to "Lord Ambassador" Williamson)

³²² In earlier parliaments there had been reviews of specific bills (*CJI(I)*, pp.14, 99, 388).

³²³ *CJI(II)*, p.51

³²⁴ *CJI(II)*, pp.247 (for 1698–99 session), 393 (1703–04), 463 (1705), 546 (1707), 611 (1709), 721 (1711); (III), pp.155 (1717), 221 (1719), 293, 295 (1721–22), 368, 374–75 (1723–24), 437 (1725–26), 480 (1727–28), 619–21 (1729–30); see also Appendix 6.3.15.

³²⁵ *CJI(II)*, p.130

transmisses out of *England*, which may mean that the second 1695 committee was still functioning.³²⁶ Certainly attention was paid to drafting changes and later in September the House noticed an error in a bill.³²⁷ In the following session on 16 January 1698/9 Members were added to that session's committee to cope with the bills arriving from England,³²⁸ which may indicate that the work was shared out among Members. The administration had a strategy for fending off criticism of alterations as Southwell explained to Nottingham when waiting for bills to return in January 1703/4: 'We must expect to be told of every alteration, but if [the money] bill comes clear and we have the main part of our Popery Bill I believe all will do well'.³²⁹ In other words, for a manageable and successful session the money bill should not be amended and the government should agree a comprehensive anti-Catholic bill³³⁰ at the top of the House's legislative priorities.

In 1709 Stephen Ludlow MP argued that the Commons should as a matter of course refuse to admit all amended legislation to the statute book in order to hinder Poyning's Law.³³¹ Ludlow's assertion did not reflect the reality. As James Kelly notes, this view was not shared in England. Nor was it, or did it become, the usual method of the Commons. From 1703 the membership of the committee did not include those who were antagonistic to administration, which implies that the operation was essentially monitoring and checking rather seeking out issues on which to pick a fight.³³² From 1703 the committees were appointed late in the session when the first batch of transmitted bills was expected back,³³³ an indication that they were appointed to carry out work. That said, there was evidence of a change in the 1720s, when on 3 January 1721/2 that session's committee was re-appointed and given additional powers to send for papers, persons and records

³²⁶ *CJI*(II), p.187; more were added 9 Nov 1697 ((II), p.213).

³²⁷ *CJI*(II), p.202

³²⁸ *CJI*(II), p.297

³²⁹ Southwell's prediction was accurate as he explained to Nottingham on 26 Jan 1703/4: 'Reports were also spread that the popery bill would not come over, and that very few of our bills would pass. The House happened to meet, according to the adjournment, just as the post came in, and when I went down to signify his Grace's pleasure to adjourn to the 28th, I found a very great appearance, and as soon as the news was spread of Her Majesty's extraordinary grace and favour in granting us more bills than we could have expected, and in so particular a manner, it created the most universal joy to most people that can be expressed' (*SP*, 63–364 f.37(stamped 38)).

³³⁰ Kelly, *Poyning's Law*, p.123

³³¹ James Kelly, "'Era of Liberty': The Politics of Civil and Political Rights in Eighteenth-Century Ireland" in Greene (ed.), *Exclusionary Empire: English Liberty Overseas: 1600–1900* (Cambridge, 2010), p.88

³³² In the 1720s Henry Maxwell, Sir Ralph Gore, Eaton Stannard. Kelly, *Poyning's Law*, p. 154, makes the point that certain sensitive subjects such as 'sole right' had particular potential to trigger a negative reaction.

³³³ One exception on the timing of the appointment that tends to support the view of these committees as functional was that the committee for the first session of reign of George II was appointed at the beginning of the session when bills such as 'short money bill' which had not taken their rise in the House (to preserve the monarch's prerogative) were received. It also may indicate the committee's function went beyond textual comparison to include the review of legislation transmitted from London.

and to adjourn and report. The widening of the committee's powers may have provided a mechanism for reviewing bills originating in the Irish Privy Council and, if necessary, an opening for attack. Kelly suggests that as a consequence of the 1720 Declaratory Act there was a further decline in bills originating in the Irish Privy Council.³³⁴ In the 1723–24 session Members were added to the committee and what appears to have been a public bill that started in the Irish Privy Council for 'the further amendment of the law' was ordered to be sent to the committee, though the order sending it to the committee erroneously stated that it had been transmitted as a heads of bill.³³⁵ There is no report from the committee but the bill was subsequently rejected.³³⁶ St. John Brodrick was nominated to the committee (of 10) in the 1725–26 session.³³⁷ The 1729–30 session followed a similar pattern of a committee with strengthened powers and there is a surviving report from the committee. In December 1729 Eaton Stannard reported that 'the Committee had found several alterations' made to the supply bill. The House ordered the report to lie on the Table thus putting the administration on notice. The bill was, however, passed on a division.³³⁸

Data from the *ILD* show that of the 260 enacted measures between 1692 and 1730 that started in the Commons, 222 are recorded as amended by the Privy Council in London (only four were amended by the Irish Privy Council). Given the procedures in place the Commons must have been aware of these changes and the level of intervention from London but was prepared to overlook it. The majority were what Kelly calls 'verbal and syntactical corrections'³³⁹ through a desire to ensure consistency of drafting in accordance with both English law and British political necessities. On the Irish side pragmatic and silent acceptance usually prevailed. The alternative would have been to reduce drastically the legislative throughput and disrupt the operation of the parliament.

While the heads of bill process allowed the Irish parliament to sidestep the full force of Poyning's Law, both Houses, notwithstanding vociferous complaining about the restrictions, were assiduous

³³⁴ Kelly, *Poyning's Law*, p.197; in addition, he makes the point that the Irish Privy Council was increasingly concerned with process and the quality of drafting. In 1724 the Council resolved to pass 'no private bills without the presence and assistance of a judge or two and of the attorney and solicitor general' (p.170).

³³⁵ *CJI*(III), p.382; Bill no.5002 (*ILD*) lists it as a bill starting in Irish Privy Council; there were several bills amending the law in their titles and so a degree of caution needs to be exercising as the *CJI* entry may be referring to another bill.

³³⁶ *CJI*(III), p.383

³³⁷ *CJI*(1st edn)(V), p.374

³³⁸ *CJI*(III), pp.620-22; Coghill records that 'the alteration of the money bill had bred great disturbances amongst us' and only after strenuous efforts by the administration and a three hour debate was the bill carried in a division (*Coghill Letters*, no.63 (To Edward Southwell, 20 Dec 1729)).

³³⁹ Kelly, *Poyning's Law*, p.124

in applying the letter of the legislation to the presented bills. At first sight this appears surprising as the operation of Poyning's Law during the seventeenth century had changed. Among the changes, as James Kelly notes, were that Charles II allowed the Irish parliament to suggest legislation, the Parliament worked with the Irish Privy Council and the Parliament developed processes for initiating legislation. By 1695 the English Government had conceded that heads were the primary route to initiate legislation. But there were limits: no open criticism of Poyning's Law was permitted in the Irish parliament.³⁴⁰ With these parameters established, there was no major attempt to revise this settlement (other than that the initiation of legislation seeped from the Irish Privy Council to the Irish parliament, especially to the Commons).³⁴¹ There was no concerted or sustained attempt to bend the interpretation of the application of Poyning's Law. One measure is the correction of inadvertent errors. When an error, or need for a change, emerged after a heads of bill had been sent to the lord lieutenant,³⁴² the options were to start again,³⁴³ or to put up with the legislation and, if possible, initiate correcting legislation in a later session.³⁴⁴ The only correction permissible to a bill was to bring the text in line with the wording as returned from England. In September 1695 the Lords discovered that three words had been accidentally omitted from the engrossed bill for settling intestates' estates, which the Commons had sent up. The bill was not sent back to the Commons; instead the Commons compared the text against that transmitted from England and sent a message that the Lords were correct to insert the missing words. The bill then was sent for royal assent.³⁴⁵ In 1705 when an error was discovered in the linen bill, it was sent back to London although it was in breach of the convention against considering the same matter twice in a session.³⁴⁶ The only other device to rectify an error was the declaratory interpretation. When it eventually passed the ill-fated linen manufacture bill in 1705, the Commons had to make a

³⁴⁰ Kelly, *Poyning's Law* pp.44-47

³⁴¹ See p.244 below.

³⁴² On a few occasions amendments were made to heads not yet sent to England: in the decade after 1692 procedures had not solidified to the extent that the House could still ask for heads not already sent to be amended. For example, see *CJ*(II), p.65, where a petition from a Member in respect of a private heads of a bill arrived at a late stage.

³⁴³ *CJ* 20 Sep 1697: 'reported that the Clerk of the Houses had received instructions from England that the bill for relief of poor prisoners, lately transmitted further, is found to be so very faulty, that it will not pass'. The House then offered a revised heads and asked Clerk to transmit it to England ((II), p.203).

³⁴⁴ *CJ*(II), p.49

³⁴⁵ *CJ*(II), p.54

³⁴⁶ *SP*, 67-3, pp.228-29(stamped 115) (Hedges to Ormond, 31 May 1705)

resolution declaring that it was not its intention to alter the rights of the established church to tithes.³⁴⁷

The extended legislative process combined with the Commons' desire to monitor changes made by the privy councils produced an emergent system to track legislation. The death of Capel caused an administrative hiatus. On 31 July 1697 the House ordered that a list of heads that had been taken to Capel but were not transmitted should be entered in the Journals and sent privy councillors to the lords justices 'to know what are become of them'.³⁴⁸ For the future the House ordered that 'notice be taken in the Journal, from time to time, of what bills are sent by this House to the chief governors, and by whom the same are sent, and that copies of such bills so prepared and sent be kept by the Clerk'.³⁴⁹ On 5 August the lords justices replied with a list of heads sent to England. The House then ordered the Speaker to write to Capel's secretary, to ask what had become of missing heads and what had become of three bills returned under the Great Seal of England and delivered to him. The House then set up a select committee 'to prepare heads of the bill for preserving papers, arrears, books, entries and duplicates in the secretary's office, and continuing them here on the change or removal of the chief governor'.³⁵⁰ In addition, when concerned about progress on heads the Commons would ask the lord lieutenant to write to England 'to remind them of [a] bill, which was transmitted thither'.³⁵¹ If a bill appeared to be delayed in the Lords the Commons could send a Member with a message reminding them of the bill.³⁵²

When legislation came back from London it was copied and then presented.³⁵³

³⁴⁷ *CJI*(II), p.480; section VIII of 4 Anne c.4 reduced tithes paid by Protestants for three years from 1705. A reasonable construction of the Act was that at the end of the period tithes on hemp and flax would increase to their previous levels; an alternative, not beyond doubt, was that tithes might become fully exempt; on the dispute see p.67 above. A similar approach was adopted when the Lords questioned a clause in the 1709 bill to prevent the further growth of popery that provided for peers to be summoned to appear before justices of the peace, and the Commons declared and entered a detailed declaration in the *CJI* that this was not their intent (II, p.629).

³⁴⁸ *CJI*(II), p.157

³⁴⁹ *CJI*(II), p.157; see also p.160; and similar exercises were carried out regularly subsequently—see pp.247, 290, 400, 402, 463, 540. The absence of copies for comparison does not recur as a problem.

³⁵⁰ *CJI*(II), p.221; the heads lapsed in the Commons.

³⁵¹ *CJI*(II), p.201

³⁵² For example, see *CJI*(II), p.400.

³⁵³ *CJI*(II), p.22

4.10 Financial powers and procedures

The development of the procedures of the Commons in authorising biennially the raising and allocation of taxes was instrumental to, as Patrick Walsh suggests, making Ireland 'an integral but yet separate part of the eighteenth-century British imperial or fiscal-military state'.³⁵⁴ He notes that 'concerns about security rather than abstract ideas about liberty were to the forefront of the Irish Protestant elite's minds' and the revenues necessary to maintaining the army on the Irish establishment and building a country-wide network of barracks to house them

could not be raised solely by taxation, although this would be the primary source of government income through the century. Public credit structures, just as in Britain, had also to be developed with a separate Irish national debt first instituted in 1716. This debt took the form of a national loan of £50,000 largely raised from within Dublin's parliamentary and administrative circles. The proximate cause for this development was the raising of thirteen new regiments ... upon the outbreak of the Jacobite rebellion in 1715. A second loan of £150,000 would be raised in 1729 to meet growing army pay arrears.³⁵⁵

The 1661 parliament had voted substantial increases in taxes and duties without a time limit and in the favourable economic climate the voted revenues had been ample to meet the requirements of the administration and so removed one incentive for calling a parliament. The war of 1689–91 increased the administration's expenditure and debts as well as devastating the economy and bringing the collection of revenues to a near standstill. The need to secure additional income for the administration—supply—was not the primary reason for calling the 1692 parliament. Only when Sydney arrived and learned that the administration's pay arrears might reach more than £100,000 in 1693 did he, on his own initiative, begin preparations for money bills.³⁵⁶ The administration lost the initiative as it had no bills ready and the House turned to examining grievances.³⁵⁷ C.I. McGrath points out the 1692 parliament and the assertion of 'sole right' to initiate supply saw for the first time in Ireland a number of concepts and procedures that were to be developed and refined over the following 20 years: (i) the focus of the Commons on the committee of the whole House to establish the money to be supplied and to establish the duties and taxes from which the supply would be raised; (ii) the requirement for the administration to justify its need

³⁵⁴ Walsh, 'Fiscal State', p.630

³⁵⁵ Walsh, 'Fiscal State', pp.633-34

³⁵⁶ McGrath, *Irish Constitution*, pp.76-77; see also McGuire, 'Parliament of 1692' in Bartlett and Hayton, *Penal Era*, pp.7-8; see also pp.197ff.

³⁵⁷ McGrath, *Irish Constitution*, p.79

for supply which required the production of papers and scrutiny in the Committee of Accounts; and (iii) the concept of short-term additional supply for a defined time and purpose.³⁵⁸

While earlier Irish parliaments had granted supply, the procedures adopted from 1692 drew on and adapted those emerging at Westminster.³⁵⁹ They enabled the Commons to dominate the supply process. By the 1711 session the procedures were nearly fully developed and the stages of the process, with some commentary on the development, are set out in Appendix 6.14.4. This section examines key features of the adaptations. Supply mattered to the administration. It needed the revenue to support the military and civil establishment (and to ensure items taxed did not disadvantage England's economy). The events of 1692 cast a long shadow and the administration lacked not only control but also nervously feared attack from opponents as well as mishap. In 1703 Southwell explained how problems could arise:

I enclose the public papers which were given to the House and the report of the committee. There will be some censure ... passed on the officers of the Revenue for not bringing in a state of the credits as well as the debts ... There was no fraud in it, yet they were very remiss therein ... and it is plain we are now baffled of a very large demand ... In [the 1690s] the Brodricks then governing passed their accounts without examining.³⁶⁰

The process of examination of accounts was especially open to 'country' arguments about financial waste and *patriotic* sentiment—the pensions to non-residents were a fertile ground for criticism.

The Committee of Accounts made its appearance in 1695. Its listed membership of 29 Members was supplemented 'with all merchants and bankers that are Members of the House' to inspect the papers laid before the House. It had commercial and financial expertise as it included the chancellor of the exchequer and Sir Francis Brewster.³⁶¹ The House gave the committee full powers to send for persons, papers and records and to adjourn itself and to determine the venue of its meetings. In addition, it was given the power to establish sub-committees.³⁶² Brewster was impressed by the Irish supply process as he commented in *New Essays* that 'To me there seems

³⁵⁸ McGrath, *Irish Constitution*, pp.89-117

³⁵⁹ Thomas, *Commons*, pp.72-82

³⁶⁰ *SP*, 63–363, f.95(stamped 204) (Southwell to Nottingham, 15 Oct 1703)

³⁶¹ *CJI*(1st edn)(II), p.660

³⁶² *CJI*(II), pp.55 (9 Sep 1695), 162 (7 Aug 1697), 324 (30 Sep 1703), 430 (19 Feb 1704/5), 499 (14 July 1707), 582 (13 May 1709), 648 (25 May 1710), 701 (20 July 1711), 751 (2 Dec 1713)

the same reason for the Commons to have conduct of trade, as they have of money bills'.³⁶³

Adjustments were made: the committee's quorum was reduced from eight to five and, exceptionally, it was empowered to sit at the same time as grand committees, and the chief secretary was added.³⁶⁴ The first point may indicate a problem with attendance but shows that it was intended to function through small groups and the latter the importance and volume of its work. The committee reported several resolutions on 23 September 1695.³⁶⁵

The committee did not, however, immediately become a permanent fixture. The Journals for 1697 contain only a couple of references to a Committee of Accounts³⁶⁶ and it is not mentioned again until 1703. In its absence the detailed work of scrutiny was carried out by a committee of the whole House, to which papers laid by the administration were referred.³⁶⁷ In 1703, upon the administration laying comprehensive financial documentation, the House set up a Committee of Accounts consisting of 34 Members 'together with all merchants and accountants', though it appears that all Members had a voice and vote.³⁶⁸ Southwell explained how this 'large Committee ... sat early and late' and that its critical focus was on 'most things which were not for the immediate support of the Army'. Speaker Brodrick (not a listed member of the committee) made several long, unhelpful speeches which 'turned the minds of a great many ... from us' and the administration's opponents proposed the question that the chairman of the committee should leave the Chair, which the administration lost on a division of the House (141:88).³⁶⁹ The picture Southwell paints is of a body operating as a committee of the whole House and a platform for debate, fishing for issues to exploit and Speaker Brodrick grandstanding. Southwell also shows that the administration was not detached from operation of the committee and could manage it. Over 20 years later some of the same pattern can be seen when Bolton explained to Secretary of State James Craggs:

³⁶³ Sir Francis Brewster, *New Essays on Trade, wherein the present state of our Trade, its great decay in the chief branches of it, and the fatal consequences thereof to the Nation (unless timely remedy'd), is considered under the most important heads of Trade and Navigation* (London, 1702), p.55

³⁶⁴ *CJI*(II), pp.58 (13 Sep 1695), 61 (14 Sep 1695)

³⁶⁵ *CJI*(II), p.69

³⁶⁶ On 7 Aug 1697 the committee was revived, *CJI*(II), p.162.

³⁶⁷ *CJI*(II), p.161

³⁶⁸ *CJI*(1st edn)(III), p.27

³⁶⁹ *SP*, 63–363 no.85(stamped 218-19) (Southwell to [Nottingham], 9 Oct 1703)

The Committee for the Accounts met this morning and chose Mr Harrison their chairman, and on Monday will subdivide themselves [into sub-committees]; and I will get the King's servants to attend as well as I can to hasten the money bill forward.³⁷⁰

As with other committees the chairman not only carried a substantial administrative load but also could determine the direction and attitude of the committee. The administration regarded Harrison as friendly and had manoeuvred to secure his re-election. Bolton explained:

There was a design to have made a dispute about the chairman for the examining the public accounts and they had persuaded Mr Harrison to go out of town to be out of the what; but I sent a messenger on purpose for him and he came.³⁷¹

The purpose of the sub-committees was to 'give greater despatch to that great affair committed to their charge'.³⁷² The sub-committees' work was immediately central to the supply process as it examined past expenditure and scrutinised the administration's request for supply.³⁷³ Each focused on a specified area, took about a week to complete its work and reported to the main committee which in turn reported to the Committee of Supply.³⁷⁴ Webster explained in 1719:

The sub-committees ... not having been able to finish ... their reports sooner than Monday next, and it requiring some time afterwards for the chairman of the Committee of Accounts to digest those several reports into method in order to be laid before the House, it was found impossible for the House to proceed upon granting the supply on Monday ... but they have resolved to do it on Thursday next.³⁷⁵

Central to the maturing Supply process was the provision of papers. In 1703 the Commons asked for supplementary papers, including an account of the army's arrears and a statement setting out the Establishment to be laid the following morning, when the House was due to start consideration of supply. On the following day 13 papers were supplied.³⁷⁶ There was, however, a difficulty when the Committee of Accounts requested a year book for 1702. It was not produced and the House summoned and imprisoned the deputy receiver general.³⁷⁷ The failure to produce information quickly became 'the great occasion of [the House's] suspicion'.³⁷⁸

³⁷⁰ SP, 63–377(stamped 167) (Bolton to [Craggs], 8 July 1719)

³⁷¹ SP, 63–377(stamped 167), f.135(stamped 161) (Bolton to Craggs, 9 July 1719)

³⁷² 1707 report of Committee of Accounts (*CJI*(II), p.510)

³⁷³ McGrath, *Irish Constitution*, p.164

³⁷⁴ SP, 63–367 f.138(stamped 11) (Southwell to Dartmouth, 28 July 1711)

³⁷⁵ SP, 63–377(stamped 123) (Webster to Delafaye, 25 July 1719)

³⁷⁶ *CJI*(II), pp.322–23 (29 Sep 1703)

³⁷⁷ *CJI*(II), pp.330–31, 339

³⁷⁸ *BL, Add.* 28,891, ff.129–30 (from McGrath, *Irish Constitution*, p.166)

As at Westminster, while the request for papers may have been dressed up in the deferential form of the respectful address, the administration did not stand on the dignity that the supplying of papers was a favour. To head off problems, the administration realised the importance of the timely and managed presentation of the accounts and work on them started well before the session opened. Ahead of the September 1717 session the lords justices started examining accounts in March.³⁷⁹ The second element of the strategy was to explain the accounts. The 1725–26 session was atypical in that the supply arrangements were more fraught than in any session since 1713. Its shortcomings and improvisations highlight both the expected operation and resilience of the system. When work started on the accounts for the 1725–26 session,³⁸⁰ it became clear that the deputy vice-treasurer, John Pratt, had not done his job well. Coghill feared that, if the accounts presented to the Commons were unclear, the result would be that those intent on mischief could claim debts were less than stated.³⁸¹ In contrast to earlier sessions, Carteret, despite warnings about the need to manage presentation, considered that the accounts would speak for themselves.³⁸² The administration's approach irritated Members:

the accounts were not laid before them in so clear a light as to give them satisfaction, which they looked upon as done on purpose to puzzle matters for which reason after a great deal of labour and time spent ineffectually in trying to state the accounts, they were resolved (finding they had the majority) to cut the matter short and pinned down the affair by a vote.³⁸³

Coghill's fears were justified. On 28 October 1725 Carteret informed Newcastle that the Committee of Accounts had not yet come to a conclusion but

the great confusion in the public accounts ... has given a handle for the altering the usual method of proceeding in this committee, which formerly used to sub-divide itself into several committees ... whereas they have now proceeded upon the whole in the general committee. The King's servants in the House ... did not oppose this method of proceeding, lest it should give a suspicion that there was the least intention of concealing the truth... Those who are most solicitous in opposing the measures taken here, are so sensible of this, that they have endeavoured ... to avoid stating the real facts; the arguments made use of by them have had great weight with several of the country gentlemen, who seem so apprehensive of a new tax, that they are most inclined to believe those who represent the debt to be smallest.³⁸⁴

³⁷⁹ *SP*, 63–375 f.147(stamped 64) (Chief Secretary Bladen to Delafaye, 26 Mar 1717)

³⁸⁰ *SP*, 63–385 f.130(stamped 72) (Bladen to Delafaye, 2 Apr 1717)

³⁸¹ *Coghill Letters*, no.18 (To Edward Southwell, 30 Oct 1725)

³⁸² *Coghill Letters*, no.21 (To Edward Southwell, 23 Dec 1725)

³⁸³ *BL*, *Add.* 47,031 f.93 (Philip Perceval to Lord Perceval, 1 Feb 1725/6)

³⁸⁴ *SP*, 63–386 (stamped 224) (Carteret to Newcastle, 28 Oct 1725)

Carteret's letter shows the defensiveness and vulnerability of the administration's position, his initial failure to grasp the political dimension of the scrutiny, the advantage resting with those opposing the administration and the pliability of the procedures. The House dispensed with sub-committees and moved to the full Committee of Accounts as a platform from which opponents could attack the administration. On 26 October Lord Chancellor West told Newcastle that, although the debt stood at £200,000, the gentlemen in the House were not inclined to vote extra duties but instead attacked the French pensioners and enhanced the revenue 'as much as possible, in order that the difference between them might be looked upon as a sufficient fund for the discharge of the debt'.³⁸⁵ They also estimated the next years' revenue on the basis of the most buoyant recent years and a growing revenue. On 16 November Carteret informed Newcastle that the administration's representatives in the Commons 'have done their utmost and supported the debate in the most proper manner; but all their arguments, and even demonstration, were answered by the popular cry of no new taxes'.³⁸⁶ Carteret erred in taking Members for granted, who were only too willing in the aftermath of Wood's halfpence to interpret muddle as deceit. Those in opposition saw their opportunity, exploited error and ambiguity and cherry picked figures, including historical figures, to bolster their case. In the end a compromise emerged from what was essentially a political process. Even in the 1725–26 session the administration obtained a supply act.³⁸⁷

Once the quantum of supply was settled the committee had to decide how the money would be raised through the Ways and Means process, which followed a pattern of development seen with other procedures in the Commons in the 20 years after 1692. It moved from the sprawling to the focused, if not streamlined. The Committee on Ways and Means first met on 16 September 1695 it then met five times over the next month³⁸⁸ and several petitions seeking money were referred to it³⁸⁹ before resolutions were produced. The committee's report was taken fragmentarily on eight occasions between 1 and 18 October 1695.³⁹⁰ The resolutions specified the rate at which duties

³⁸⁵ *SP*, 63–386 (stamped 214) (West to Newcastle, 26 Oct 1725)

³⁸⁶ *SP*, 63–386(stamped 292-93) (Carteret to Newcastle, 16 Nov 1725)

³⁸⁷ 12 George I c.1

³⁸⁸ *CJ*(II), pp.60, 62, 66, 70-72, 75

³⁸⁹ For example, from the Protestant hackney coachmen of Dublin wanting to preserve their monopoly and clarify the fees due to the administration and to be paid by their customers (*CJ*(II), pp.60, 67); Huguenot refugees seeking assistance and exemption from the poll tax (p.68).

³⁹⁰ *CJ*(II), pp.78-80, 82-85, 87-88, 96-97

would be charged and the period during which they would be levied. The committee's first resolutions formed the basis of a poll tax; the only information recorded was that the resolutions were sent to the lord deputy on 7 October 1695.³⁹¹ After three more meetings of the committee the House agreed to resolutions from the committee to extend duties on beer, ale and liquors³⁹² and asked the lord deputy to draft a bill³⁹³ and then, finally, on 18 October duties on tobacco, drapery, linen and wine imports, but this time heads of a bill were sent to Capel, though with drafting instructions for two clauses to be included.³⁹⁴ This pattern continued in 1697 and in 1698/9. The 1698 committee took oral evidence from the corporation of weavers at the bar of the House on the amount of duty to be levied on draperies.³⁹⁵ The House reverted to sending its resolutions to the lords justices for them to frame the legislation.³⁹⁶ By 1703 the ways and means process had reduced to three sittings.³⁹⁷ The committee's report included instructions on the drafting of the heads of a bill.³⁹⁸ The 1707 committee made a single report, the resolutions in which were agreed by the House and immediately ordered to be drafted as heads of a bill.³⁹⁹

Appropriation, beyond payments to individuals,⁴⁰⁰ slowly entered the financial procedures. In May 1709 Sir John Perceval noted the novelty and difficulties in a letter to Southwell:

this method of appropriating each particular sum though practised in England is entirely new to us, and at least not fit to be insisted on at this time because the money in cash will not probably answer the Establishment, and we do not know how much of the supply must go to make it up, wherefore we should take good care not to pin the government down in the disposal of that money.⁴⁰¹

The administration's nervousness around supply was not based solely on fears that the Commons would deny supply but also that it would proactively levy *political* taxes. Coghill recorded in 1729 that 'there will also be a tax of 4s in the pound on the profits of all employments civil and military held by those who are absent out of the kingdom, this his Excellency has no great inclination to,

³⁹¹ *CJI*(II), p.83

³⁹² *CJI*(II), p.89

³⁹³ *CJI*(II), p.90

³⁹⁴ *CJI*(II), pp.99

³⁹⁵ *CJI*(II), p.283

³⁹⁶ *CJI*(II), p.285

³⁹⁷ *CJI*(II), p.355, 358, 361

³⁹⁸ *CJI*(II), p.363

³⁹⁹ *CJI*(II), p.523

⁴⁰⁰ See pp.51ff above.

⁴⁰¹ *BL*, Add. 46,984 f.122 (Sir John Perceval to Edward Southwell, 26 May 1709); appropriation had been used at Westminster since the 1670s (Paul Seaward, *The Restoration 1660–1688* (Basingstoke, 1991), p.22)

but it will go without opposition, for it is impossible to stop'.⁴⁰² Such tactics were not new. In 1703 Southwell reported a 'bench to bench debate' which illustrates the nature of debate and the range of tactics both sides used:

Thomas Brodrick proposed to lay a tax upon all Papists who had been [restored?] by favour since the last war, and was not included in the Act of Resumption. This ... was exposed as a very trifling fund, which could not yield above [£]4 or 5,000: that it could not be come at without a new court of claims [and] should be in a bill by itself, and proper only to be applied to the building of a citadel at Limerick or barracks or some such purposes. He then proposed a duty upon calicoes and linens [which would] encourage our own manufacturers at home. He next proposed a duty upon gold and silver lace. These proposals instead of hurting for us did ... turn much to our advantage for it showed a great deal of trifling and a plain design of giving ineffectual funds. Then the additional duties on tobacco wine and linen as formerly were also offered to the House; but the 2nd years excise was first proposed, it was thought in point of order that ought first to be debated. The House seemed to [view?] it very well ... and it growing dark, and candles being called for, they moved the chairman should leave the Chair, which question being put we carried it for bringing in candles by 138 to 98 so that soon after we came to a resolution for granting the excise for a year more, which is to be reported on Saturday; ... They moved for Tuesday to go on again on ways and means, which we could not get sooner the Speaker quitting the Chair instantly before the question could be put for a shorter day.⁴⁰³

4.11 Committees

Much day-to-day business was conducted through committees, rather than in the House, as they were more flexible and informal. In committee Members could speak more than once. Committees could be empowered by the House to send for persons, papers and records and meet away from the House and, by order, while the House was sitting. Through committees the House could demonstrate its power to set its own agenda to enquire into issues and to frame legislation.⁴⁰⁴ The records of their operation and activities are scant as the Journals only record their appointment and that they reported to the House. In some cases their resolutions were recorded and, as noted, in a few cases their reports.

The parliament that met in 1692 moved swiftly to follow the precedents of earlier Irish parliaments⁴⁰⁵ and to copy English parliamentary procedure⁴⁰⁶ by establishing five grand committees. The English parliament had five grand committees and its Journal entry for 22 January 1688/9 provided an outline for the operation of four:

⁴⁰² Coghill Letters, no.60 (To Edward Southwell, 8 Nov 1729)

⁴⁰³ SP, 63–363 no.117(stamped 135) ([Southwell] to Nottingham, 4 Nov 1703)

⁴⁰⁴ Julian Hoppit (ed.), *Parliaments, nations and identities in Britain and Ireland 1660–1850* (Manchester, 2003), p.6

⁴⁰⁵ The Commons in 1661 had appointed three grand committees: Grievances, Privileges and Trade (CJ/I), pp.388–89, 405–06)

⁴⁰⁶ Scobell, *Memorials*, pp.35ff suggested that one function of a grand committee was the preparation of matters such as bills, which in the Irish context of the evolving heads process, would have been cumbersome.

Ordered, That the Grand Committee for Religion do sit every Tuesday, in the afternoon, in the House.

Ordered, That the Grand Committee for Grievances do sit every Thursday, in the afternoon, in the House.

Ordered, That the Grand Committee for Courts of Justice do sit every Saturday, in the afternoon, in the House.

Ordered, That the Grand Committee for Trade do sit every Monday, in the afternoon, in the House.⁴⁰⁷

(The fifth was the Committee of Privileges and Elections and is examined separately.) The terseness of the entries betrays that the appointment of the four grand committees had become a formality as they were on the point of falling into disuse. The Irish Journals for 11 October 1692 provide for the same grand committees as at Westminster with meeting times in the Speaker's chamber but, following earlier Irish practice, the entries set out the committees' membership,⁴⁰⁸ quorums (eight in each case) and powers and terms of reference. Moreover, the volume of business expected was such that three committees were allocated more than one slot.⁴⁰⁹ For example, for the Grand Committee for Grievances the House:

ordered that Mr *James Hamilton*, Capt *Henry Nicholls*, *etc.* be appointed a Committee of Grievances; that they, or any eight or more of them, have the power to meet in the Speaker's chamber thrice a week: *viz.* on *Tuesdays*, *Thursdays* and *Mondays* in the afternoon, to hear and examine all such matters and Grievances which shall come before them; and that all Members, who shall come to the Committee have voices, and have power to send for persons, papers, and records, to inform themselves by; and from time to time to report their proceedings to this House and to adjourn as they shall think fit and convenient.⁴¹⁰

The Committee for Grievances (see Appendix 6.3.3) was the most active in 1692 reporting resolutions to the House expressing concern about the numbers of Catholics in the army and carrying arms as well as about the management of forfeited estates. It also examined financial mismanagement in the Revenue, the collection of duties in Dublin and Cork and managing forfeited goods and lands. It was a platform for Protestant grievances. When the next session opened in 1695 the committee was given one afternoon slot and the Journal entry followed the formal 'English' pattern: '*Ordered*, That the Committee for Grievances to meet and sit every

⁴⁰⁷ CJE(X), p.10

⁴⁰⁸ Justice, Courts and Trade each had a membership between 60 and 66; in contrast Grievances had a membership of 114 (CJI(1st edn)(II), pp.579-83)

⁴⁰⁹ CJI(II), pp.12-13

⁴¹⁰ CJI(II), p.12

Monday, at four of the clock in the afternoon'; with no listed membership.⁴¹¹ But the committee met to examine grievances such as local officials taking excess duties.⁴¹² Later in the session it was given an additional slot because the committee had 'much business before them, and not sufficient time to dispatch the same'.⁴¹³ This business changed from Protestant grievance—possibly because the House had an alternative route via initiating 'penal' legislation—to, for example, the examination of a petition that excess duties were being levied on penthouses in Dublin. But from this session business in the grand committee dropped off. There is little evidence in the Journals of much activity by the grand committee after the 1703 session. A similar pattern is seen the grand committees for Religion, Courts of Justice and Trade.⁴¹⁴

The explanation for their decline is that they were too cumbersome to deal effectively with the volume and type of business coming before the House. One obvious impediment was mustering a quorum. Although set at eight in 1692,⁴¹⁵ English practice was 40,⁴¹⁶ which the Irish House in November 1695 lowered to 24.⁴¹⁷ Two entries from 5 October 1695 show the emerging pattern.

— The House appointed a select committee of 19 chaired by Francis Annesley and including Sir Francis Brewster, to consider the improvement of trade, as to linen manufacture, butter, iron, etc. with a quorum of five and an instruction 'to consult the committee for trade, if anything of difficulty arise'.⁴¹⁸

— A petition from the corporation of skimmers and glovers complaining about the effect of a duty on the export of skins was sent to the select committee, not the grand committee.⁴¹⁹

Although the four grand committees continued to be set up, they were neither drawn into the work of the House nor sustained. The appointment of these committees became a formality mimicking English practice, which served little purpose other than providing a time at which the House should adjourn.

⁴¹¹ *CJI(II)*, p.45; there is evidence that later in the session it was meeting on Wednesdays— *CJI(II)*, p.78.

⁴¹² *CJI(II)*, pp.63, 69-70

⁴¹³ *CJI(II)*, p.117; and see also p.138.

⁴¹⁴ See Appendices at 6.3; of these Trade had the longest active life.

⁴¹⁵ Scobell, *Memorials*, p.49 gave eight as quorum for select committees.

⁴¹⁶ *Erskine May*, p.228

⁴¹⁷ *CJI(II)*, p.117

⁴¹⁸ *CJI(1st edn)(II)*, p.702

⁴¹⁹ *CJI(II)*, pp.79-80

Another factor pushing the grand committee aside was a new committee of the whole: the 'committee on the state of the nation' which was first recorded in the English Journals in 1674⁴²⁰ and its first reappearance after the Revolution was on 29 January 1688/9.⁴²¹ The issues considered were of national importance such as the method for paying the army.⁴²² P.D.G. Thomas defines it as 'an ad hoc institution periodically created by the initiative of the opposition Members on the pretext that government policy had created exceptional discontent or disaster'.⁴²³

Given the outlook of Irish Members its transfer to Dublin was likely and it first appeared in the Irish Journals in 1692.⁴²⁴ It did not have time to report before the 1692 session was prorogued, though it may well have been set to fit the definition of P.D.G. Thomas of a harbinger of political trouble. In its second outing its target was the Restoration regime, though with contemporary resonance. Its first report made by Robert Molesworth in 1695 concluded that

- the long intermission of parliaments in this kingdom has been one principal cause of the grievances this nation has hitherto lain under,
- Charles II and James II had encouraged Irish Catholics, and
- the proclamation of 8 March 1671/2 dispensing with the Acts of Settlement was contrary to the true intent and meaning of the legislation and was therefore illegal.

The upshot was a decision by the House to draft legislation to protect Protestants' land titles where they had bought land from Catholics after 1671.⁴²⁵

The table in Appendix 6.17 sets out the work of committee to 1730. The pre-occupations that had animated the Committee for Grievances in the 1690s found a new home in this committee: fear of Catholics; preservation of the land settlement; administration of justice; constitutional matters; and elections. It also moved into partisan territory with attacks on Lord Chancellor Cox. P.D.G. Thomas suggests that the switch to a Committee on the State of the Nation was because the demand for the redress of grievance before the grant of money had become outmoded by constitutional and

⁴²⁰ *CJE(IX)*, p.297

⁴²¹ *CJE(X)*, p.15

⁴²² *CJE(X)*, p.545

⁴²³ Thomas, *Commons*, p.269

⁴²⁴ *CJI(II)*, p.26

⁴²⁵ *CJI(II)*, pp.65, 69, 69

political developments.⁴²⁶ The switch in Ireland may have been driven by Westminster showing the Irish House adopted new and evolving processes rather than trying to revive older archaic forms.

At the other end of the committee scale the select committees was much more flexible than the grand committee. It could be whatever size the House ordered and it could be set a task by the House, meet, investigate and report back quickly. As early as 1692 the task of identifying which English legislation since 1494 could be replicated in Ireland was given to a select committee rather than the Grand Committee on Courts.⁴²⁷ The approach was repeated in 1695 and the select committee was empowered to sub-divide and was given an instruction to draw up heads and it reported back a first batch within eight days.⁴²⁸ Select committees proliferated after 1692 and were the work-horses of the Commons. Their staple fare was the one-off task such as reviewing a petition or drafting heads of a bill where a group of Members could come together to perform a task and report. The range of employment could run from the routine to preparing grounds of impeachment against the lord chancellor.⁴²⁹ For example, on 23 November 1698, on a petition of Charles Northcote the House:

*Ordered, That Mr Thomas Brodrick, Mr Solicitor General, etc, or any three of them, be appointed a committee, to meet at the Speaker's Chamber this afternoon, at four of the clock, to take the ... petition [of the Galway prisoners praying relief against Colonel Burke] into consideration, and report their opinion what they think fit to be done for the petitioner's the relief.*⁴³⁰

The Commons set the membership of the committee, the quorum at three and the time and place of the first meeting as well as the purpose of the committee. Meeting in the Speaker's Chamber was a straight copy of arrangements at Westminster at this time.⁴³¹ With Brodrick named first the implication is that he would be the chairman. The committee probably only met once and reported back to the House on 25 November in favour of the petitioner and that heads of a bill be drafted. The House agreed with the committee's resolutions and then instructed it to prepare heads.⁴³²

⁴²⁶ Thomas, *Commons*, p.82

⁴²⁷ *CJI(II)*, p.15

⁴²⁸ *CJI(II)*, pp.49, 51, 56, 59, 64, 69, 73, 86

⁴²⁹ *CJI(II)*, pp.765-72

⁴³⁰ *CJI(II)*, pp.273-74

⁴³¹ Ellis, *Practice and Procedure*, pp.10-11

⁴³² *CJI(II)*, p.276

Brodrick reported the heads of a bill on 28 November which were then committed to a committee of the whole House.⁴³³ The committee's work was done.

If a committee required additional powers it could be empowered 'to send for persons, papers, and records, and to adjourn, from time to time, from place to place, as they shall think fit'. In other words, it could assemble and test evidence by calling witnesses to attend and by sending for documents and it could set the time and venues of its meetings after the first meeting. These powers were frequently recorded in the Journals when select committees were set up, but not universally, which indicates that some consideration was given to how a committee might operate. (It may be that the absence of these powers is an indication that the business had already been settled and the committee's function was to rubber stamp it.) Committees could be enlarged, when additional skills such as legal expertise of lawyers were required or because wider issues were under consideration. Sub-committees could only be established with explicit authority from the House.⁴³⁴ Exceptionally, all Members could be given voice i.e. allowed to speak at a select committee.⁴³⁵ Beyond these template powers and routine changes, the House could order additional powers or exemptions from existing procedures following Westminster practice.

- a) Select committees could not sit while the House (or a grand committee), which all Members could attend, was sitting, but in exceptional circumstances the rule could be overridden.⁴³⁶ (The fact that select committees were frequently ordered to meet at 4pm underlines that grand committees fell into disuse from the 1690s.)
- b) When a committee ventured beyond the parliamentary buildings, it usually sought leave of the House—for example, a select committee sought permission to take evidence at the sickbed of an MP and from a prisoner in the Marshalsea.⁴³⁷
- c) The House could empower a committee to sit during the recess.⁴³⁸
- d) Joint committees with the Lords were rare.⁴³⁹

⁴³³ *CJI(II)*, p.279; along with a request from Col. Thomas Bourke to be heard by counsel at the bar.

⁴³⁴ For example, *CJI(II)*, p.321

⁴³⁵ For example, *CJI(II)*, p.100

⁴³⁶ *CJI(II)*, pp.65, 67, 79; in this case the House ordered a committee to meet early and at a time that a grand committee was meeting, to examine three witnesses who had shortly to go to sea, though in doing so it was careful to ensure that notice of the meeting was given to the person against whom they were giving evidence; see also (II), pp.373.

⁴³⁷ *CJI(II)*, p.134

⁴³⁸ *CJI(II)*, p.234; there are also examples from 1661 Parliament at (I), p.401. Sitting during a recess did not develop. There was probably little point over the transmission recess as the main business had to be finished by then. One notable example was at the end of the rumbustious 1713 session, before the House adjourned for three weeks, it appointed a committee to sit during the recess, to examine the accounts so that when the House reassembled no time would be lost on supply (*SP*, 63–369(stamped 31) (Lord Lieutenant Shrewsbury to Bolingbroke, 24 Dec 1713).

As noted on supply, the power to send for papers and records added to the political weight of the Commons and the bite of its scrutiny. Refusal to supply papers brought a peremptory summons to appear before the House.⁴⁴⁰ Significant state papers were sought by address and papers delivered to the House were usually referred to a committee for consideration or lay on the Table to be perused by Members.⁴⁴¹ Papers in the possession of a committee were the responsibility of the chairman.⁴⁴² While there were sufficient clerks to attend committees of the whole house⁴⁴³ and the Committee of Accounts, given the number of select committees reviewing petitions or drawing up heads it may have been left to the chairmen to manage and report.

There are no firsthand accounts of procedures in committees but some procedures can be discerned from Journals. The initial meetings of committees usually took place at 4pm, after the House had finished business for the day (or, exceptionally, at 8am, before the start of business).⁴⁴⁴ By the 1713 parliament the timing often slipped to 5pm or 6pm.⁴⁴⁵ The venue stipulated for the first meeting of a select committee was the Speaker's Chamber, though, if all committees met there, there would either have had to have been several rooms or a queuing system. On 2 December 1713, there was the first reference to a committee holding its first meeting at 6pm in the 'Clerk's Chamber', the Speaker's Chamber was already allocated to another committee meeting at that time.⁴⁴⁶ While some select committees may have concluded their business in one meeting, others could not. The usual procedure for reporting from committees to the House was a two-stage process. The chairman reported that the committee was ready to report: 'that he was directed to report when the House will please to receive the same'.⁴⁴⁷ The House set a date—usually the following day—and that provided an order to report. The chairman then reported according to an order of the day. An entry in the Journal for 14 June 1710 set out the procedure:

⁴³⁹ *CJ(II)*, p.330 is the only example found; see p.196 above.

⁴⁴⁰ For an example see *CJ(II)*, pp.124, 330-31.

⁴⁴¹ For an example see *CJ(II)*, p.497.

⁴⁴² This is inference from (13 Aug 1707) when the House ordered that papers delivered to Mr Conolly, chairman of the committee to whom a heads for relief of Lord Bellew were committed, who was ordered to deliver them to the Clerk of the House. On the following day the papers then passed to a Mr Meredyth, who was to be accountable to the House (*CJ(II)*, p.532).

⁴⁴³ Scobell, *Memorials*, p.37, indicated, however, that the 'Chairman of the Grand Committee is to sit in the Clerks place at the Table, and to write the Votes of the Committee'.

⁴⁴⁴ See for example, *CJ(II)*, p.264.

⁴⁴⁵ See for example, *CJ(II)*, p.752.

⁴⁴⁶ *CJ(II)*, p.752; Dec 1713 pressure on rooms for committee meetings seems to have been especially heavy.

⁴⁴⁷ For example, see *CJ(III)*, p.219.

Mr *Moore* reported from the committee appointed to consider how to enlarge and level the street leading from *Cork Hill* to the Castle of *Dublin*, and upon what terms the persons interested therein may have satisfaction, that they had come to several resolutions in the matter ... which he read in his place, and after delivered at the Table, where the same were read again.⁴⁴⁸

The entry follows the equivalent Westminster entries, though they are explicit that the reading by the clerk is a second reading.⁴⁴⁹

Although the bulk of resolutions from committees were accepted, the House could recommit back to the select committee (or another committee) or it could reject resolutions. One notable rejection occurred on 13 December 1695 when a select committee reported that the fees demanded by the Marshal of the Four Courts were reasonable. The House unanimously rejected the recommendation and resolved that the fees were 'illegal, extortious and a grievance'.⁴⁵⁰ Eventually the House framed a heads of bill setting the fees.⁴⁵¹

4.12 Conclusions

The Irish House of Commons by 1730 operated on the basis of the Westminster model that had developed after the 1688 Revolution. An MP may have been complained during a debate in 1711 that they 'groaned ... under the shackles of Poyning's Law', which subjected them to the British Privy Council, and that the constitution was 'mangled and torn'.⁴⁵² The evidence from its operation, however, shows that the Dublin House had learned to live with its constraints and had managed to operate as the Westminster House did, albeit with adaptations.

First, and most obviously, Poyning's Law stimulated the heads of bill process. The heads process—essentially producing and reviewing draft legislation—was not alien to the Westminster way of doing business. In Dublin it evolved in a distinct and extended form, to allow the Irish parliament to initiate legislation. In turn it shaped the operation of the Irish parliament. The heads process was the only stage at which the Irish House—and it was nearly always just one House—could make detailed changes to legislation. The Commons became the House initiating most

⁴⁴⁸ *CJI*(II), p.658; procedure is in line with Scobell, *Memorials*, pp.51-52.

⁴⁴⁹ *CJGB*(XVI), p.321

⁴⁵⁰ *CJI*(II), p.143

⁴⁵¹ *CJI*(II), pp.204, 208

⁴⁵² *BL, Add. 47,087 f.10* (*Perceval Diaries*, 22 October 1711); Archbishop regarded Poyning's Law as a badge of enslavement and pressed for the Irish Parliament to have the power to amend bills—to thwart public bills amended to suit private interests—but the Privy Council rejected any attempt to amend Poyning's Law (Kelly, *Poyning's Law*, pp. 101-02).

legislation and the highly developed bicameralism—in terms of processes and tensions—seen at Westminster did not thrive in Dublin. The need to send heads of bills off to London stimulated systems to keep track of the content and progress of legislation and engendered a sensitivity to changes made to legislation in London. By the early sessions of the first of Anne's parliaments the rhythm was clear both to parliamentarians but to those outside. Petitions and proposals for legislation were made early in the session and the significance of the transmission recess as a demarcation in handling legislative business and the consequent effect on the part-session after the recess of the atrophying of formal processes became apparent.⁴⁵³

The 1692 session collapsed when the lord lieutenant rejected the innovative claim of the Commons to have the 'sole right' to initiate supply legislation. The administration embodied by Sydney could not accept that the Irish Commons could claim and adopt the privileges and new forms of operation emerging at Westminster. He took a paternalistic view of the management of the Commons, expecting a re-run of the 1661 parliament. The collapse of the session highlighted the tension at the heart of the relationship with Whitehall: Irish Members were now claiming the same parliamentary rights as Westminster, and Whitehall's reluctance to acknowledge any such claims. A compromise was later worked out conceding the substance of the claim but without completely conceding the principle. This compromise brokered by Capel had significant implications for the Commons, not least that the near control of supply eventually spurred procedural development leaving the procedures and processes of the seventeenth century behind and ensured the survival of the Irish parliament. The second session, 1695–97, was by comparison successful in terms of securing supply and a productive legislative output (69 statutes enacted). As Kelly points out, the session dispelled the spectre of failure that was the main legacy of the 1692 session by demonstrating that it was possible for the Irish parliament to operate in an effective law-making body manner within the restrictive parameters of Poynings Law and it showed that the Protestant interest in Ireland was more than just the passive acceptance of legislative ideas of the Irish and English Privy Councils.⁴⁵⁴ In procedural terms it was characterised by

⁴⁵³ Bergin, 'Irish Legislative Procedure', p.195, notices that 'both houses tended to give lengthier consideration to bills laid before them first, and to deal more expeditiously with bills which had already passed the other house'.

⁴⁵⁴ Kelly, *Poynings' Law*, p.79

improvisation, muddle and innovation⁴⁵⁵ combining features from the sprawling parliaments earlier in the century with lengthy adjournments; indeed there was uncertainty whether to treat it as one or two sessions. By contrast the 1698–99 session was much tighter and ended once the administration had secured supply (12 statutes enacted). By 1703 when the Irish parliament returned after more than four years some of the issues of the 1690s were receding. The Articles of Limerick had been confirmed, albeit in a truncated form, and, while there were to be skirmishes over attempts to reverse individual outlawries, the serious threat to the land settlement in favour of Protestants had passed. Events in the 1690s had shown that MPs could use the legislature, to buttress the land settlement and initiate penal legislation.

In 1695 the Irish parliament ordered that the records of the 1689 parliament be 'publicly and openly cancelled and utterly destroyed',⁴⁵⁶ a procedure that was used to show public abhorrence of traitorous and heretical publications. The destruction of the records was popular with the Protestants of Dublin who lit 'bonfires in the streets for joy that the act of attainder and other proceedings ... were destroyed'.⁴⁵⁷ This action, underpinned by an Irish statute not only declaring its proceedings null and void but also explicitly reversed them,⁴⁵⁸ ensured that none of the 1689 parliament's decisions would stand as law or precedent. The obliteration of the records represented more than a frightened elite stridently reasserting their claims to land. It asserted that those claims were based on Irish statutes made in the Irish parliament, brushing aside an earlier English statute reversing the 1689 legislation.⁴⁵⁹ Members' active use of the power to legislate to meet their future needs in Ireland was facilitated by an administration standing back from close management of all but those matters it regarded as essential. From the 1705 session the administration abandoned the preparation of a detailed legislative programme and let the Commons lead.

By the reign of George I, while there was flexibility, the procedural uncertainty and inconsistency had disappeared. The sessions followed a regular and predictable timetable. While the outer form

⁴⁵⁵ Bergin, 'Irish Legislative Procedure', p.262, describes the sessions between 1692 and 1705 showing 'confusion, experiment and innovation in Irish legislative procedure; they also saw the refinement, maturing and consolidation of a complex legislative machine which endured until the constitutional settlement of 1782'.

⁴⁵⁶ 7 William III c.3, section I

⁴⁵⁷ *BL, Add. 28,879 f.175* (Gerard Bor to John Ellis; 3 Oct 1695)

⁴⁵⁸ 7 William III c.3

⁴⁵⁹ 1 William III and Mary (England) c.9 (session II)

of the House sitting in Chichester House remained, it moved away from the methods of operation of earlier parliaments in the seventeenth century. Ireland was a subsidiary realm attached to the British crown and the political, constitutional and procedural wind blew from Westminster. The rate of development of the Westminster parliament at the end of the seventeenth century was rapid and attractive, when, to echo Conrad Russell's often quoted description of early seventeenth-century parliaments,⁴⁶⁰ it became an institution, not an event. The operation of the English executive and legislature changed with the Revolution, the Bill of Rights, annual parliaments and legislative oversight of supply. This subordinate position of the Irish parliament meant that copying and securing some of these changes was a piecemeal process. Within the constraints of Poynings' Law and the government's refusal to allow the enactment in Ireland of the parliamentary programme of the 1688 Revolution—crowned with the Bill of Rights in England and the Claim of Right in Scotland—the Commons emulated many of the procedures of the Westminster House of Commons.

Until 1703 the pattern of meetings of the Irish parliament had been one of gaps of several years between parliaments. (The 1692 parliament was the first to sit—discounting the 1689 parliament—since 1666 and there was also a break between 1699 and 1703.) Such discontinuity required checking and review of procedures as parliament re-started. The 1692 and 1695 parliaments examined precedents and past records but they were meagre, outmoded and inadequate, if not antipathetic, to the claims that the Commons, in particular, was making and the pretensions advanced for the *Modus Tenendi Parliamenta ... in Hibernia* and in Molyneux's *Case of Ireland* (1698). For instance in the 1661 parliament the Commons had no compunction about using Westminster precedents but by the end of the century explicit references, which jarred with growing patriotic sensibilities, had disappeared. The continuous sessions from 1703 removed the need for these 'commencement reviews' of processes at the start of the parliament. From 1703 the Irish Commons was increasingly in procedural and operational terms closer to Westminster than the Irish parliament of the 1660s. This process removes any doubt that, despite the veneer of antiquity the *Modus*, the Irish House of Commons was a traditional, ancien-régime institution battling to preserve its time-honoured privileges against encroachment.

⁴⁶⁰ Conrad Russell, 'Parliamentary History in Perspective, 1604-1929', *History*, vol. 61, issue 201 (1976), pp.1-27

Molyneux in the *Case of Ireland* used the 'antiquity' of the Irish parliament and its foundation myth in the twelfth century to justify its legal sovereignty. By the end of the seventeenth century there was little evidence of institutional drift propelled by the centuries of development of distinct and idiosyncratic features and procedural divergence from Westminster. On the contrary the Irish House of Commons had a tradition of looking to Westminster: John Hooker in the sixteenth century is a prime example of English procedures written down for the benefit and use of the Irish Commons and until the middle of the seventeenth century the Commons had no compunction about using Westminster precedents. The parliamentary rituals and ceremonies as well as the accommodation required were identical to those at Westminster. What the *Modus* and Molyneux represented was the emerging *patriotic* self-importance of the Protestants who sat in the Irish parliament. Members saw themselves as the English in Ireland and entitled to the same legal and constitutional rights as other Englishmen. In practical terms the changes made at Westminster from the 1670s were needed to ensure that effective operation of the Irish Commons. This modernisation was not aimed at adjustments to circumvent Poyning's Law; the heads process solidified into final form by 1703.⁴⁶¹ The explicit copying of Westminster procedures, however, undermined the pretension that the Irish parliament was a sister rather than a daughter of Westminster. The result was that Westminster's new procedures were from 1692 adopted under the guise of 'the constitution of parliament'—a term that carried the concept of applying a model post-Revolution legislature to which all Englishmen were entitled to—or silently as standing orders to allow the Irish parliament to maintain its claim to parliamentary autonomy. The relationship between the Commons Houses in Dublin and Westminster—as expressed in procedural and operational developments—was a tension amounting to a paradox: the Irish House to be effective and distinct from its Westminster sister had to be as similar as it could.

As sessions became more regular and, from 1715, predictable, there was no longer a need for the seventeenth-century practice of review and revision of operations after long periods of dormancy. Changes could be made as and when required and adaptations of Westminster practice could develop and become permanent. The handling of petitions, for instance, shows the same elaboration and embedding of process, which was noted in the previous chapter. Though in this

⁴⁶¹ Bergin, 'Irish Legislative Procedure', p.40, considers that 'by the session of 1705 there was a regular procedure for heads of bills after they were presented to the house of commons: they were read once, committed, reported and read two more times before being sent to the chief governor'. In contrast, 'earlier sessions, which display[ed] enormous variety' in procedures on heads of bills, which he sets out in chapter 2 of his thesis.

case the dynamics of the operation of Poyning's Law appear to have produced a lower threshold of parliamentary scrutiny of private legislation than at Westminster: there was pressure to get heads drafted and off at the transmission recess leaving detailed examination to the privy councils.

The privy councils operated as a 'third House' but the roles of each changed between 1692 and 1730. As the Irish parliament, and the House of Commons in particular, increasingly became the source of legislation the Irish Privy Council became a legislative sub-editor, revising heads into bills and preparing breviate for legislation before it was sent to London⁴⁶² (though it had more responsibilities with private bills where it tested claims and heard petitions and it resisted encroachments by the Privy Council in London to appropriate its checking functions). It was the Privy Council in London that became the third House: although it had no formal power to initiate legislation, it had to agree and could respite, veto or amend as well as hearing petitioners.⁴⁶³

The facility to draft legislation was a key manifestation of the autonomy of the Irish House of Commons. From the 1690s the initiative to legislate slipped out of the grasp of the government for it to become a reviewer, reviser and refuser of Irish legislation. The result, as with supply, was a delicate but resilient compromise. The Commons monitored closely the changes made to heads by the councils and armed with details of amendments it could attack the administration. The ammunition was, however, used sparingly. Vetoing its own legislation was not productive. On the Irish side pragmatic and silent acceptance usually prevailed. The alternative would have been to reduce drastically the legislative throughput and disrupt the operation of the parliament. Moreover, the bulk of the amendments were drafting changes, a mixture of the necessary, the fussy and the symbolic (that the Privy Council had the last word).⁴⁶⁴

In parallel with the effort put into checking, the Commons consistently and regularly reviewed the legislation enacted in England. This chimes with a theme running through the operation of the Irish House, that of asserting its autonomy and distinctiveness by assiduously copying and adapting

⁴⁶² Kelly, *Poyning's Law*, p.46; Bergin, 'Irish Legislative Procedure', p.177, make the point that managing the Irish Parliament meant that had to carry some of the 'odium attaching to the rejection of ... initiatives'.

⁴⁶³ Kelly, *Poyning's Law*, pp.134-35, considers that members of the Irish Privy Council took their duties very seriously and points to both the number and backgrounds of those attending—bishops and the lawyers. Kelly also makes the point that it increasingly concentrated on ensuring due process was carried out; he points out that that, after the fire of 1711, it decided to acquire copies of the rules and precedents of the British Privy Council (p.169).

⁴⁶⁴ Kelly, *Poyning's Law*, p.148, notes the high level of amendments and considers that the Irish Parliament was prepared to accept amendments, particularly where the amendments were in line with the purpose and content of the original heads. See also Bergin, 'Irish Legislative Procedure', pp.150ff, on reasons for changes; Bergin comments that 'literal amendments were sometimes very numerous but do not appear ever to have been contentious' (p.156).

English/British models, which were seen as a prime source of fresh legislation for Ireland. Without such a regular legislative updating the Irish parliament risked undermining its own purpose as the alternative would have been for those requiring legislation to look to London.

The development of the undertaker system to steer supply and government legislation through the Commons has been examined by historians. This thesis makes two points. First, although they varied in political skills and personal tastes, the chief secretaries and lords lieutenant played an active part in the process through personal contacts with MPs, their political antennae and skills, and being on guard in the chamber. Second, when heads completed their passage through a chamber, chief secretaries and lords lieutenant handled the transmission and contacts with London. Below supply and key government legislation, business was managed by a group of around 20—*mini*-undertakers—many of whom were lawyers or held posts in the administration (or both), who advised, drafted, negotiated and managed business through the Commons. For the most part the administration, while it kept an eye on this business, in order to protect its interests, left the Commons to its own devices.

5 Conclusions on the operation, practices and procedures of the Irish House of Commons from 1692 to 1730

The assertion in the *HIP* that the 'Irish parliament modelled itself as closely as possible' on the British House of Commons¹ needs revision. It would be more accurate to say that the Irish House of Commons modelled itself on the Westminster House of Commons for two purposes. The first was to show parity of status with Westminster, often without threatening the constitutional and political structures of Ireland and Britain. The second was practical: many of the problems the Dublin Commons faced were not new and Westminster had already produced a remedy. Copying Westminster procedures assisted the efficient and effective operation of the Irish House of Commons. Dublin was content to borrow from Westminster on its own terms.

For the legislatures in the British Isles the last decade of the seventeenth century and the first of the eighteenth were a time of constitutional, political and procedural change and, at times, turbulence. In the three parliamentary sessions in the 1690s the procedural and operational arrangements of the Irish House were far from consistent and its future trajectory was uncertain: back to the once-in-a-generation parliaments of the seventeenth century or a pattern closer to that emerging at Westminster. Not until the reign of Anne did it become clear that the Irish parliament too was on the road to becoming an institution, though one with much less control of the executive than its sister at Westminster. The 21 years after 1692 show an institution changing, being tested—externally by the government and internally with factional disputes culminating in the 1713 session—and then consolidating into a body that served the ends of the administration and its Members. Following the abortive session of 1692, a political compromise was found by which the Commons exercised extensive control over supply, which the government required to finance the civil and military establishments in Ireland.² This opened up the way forward. If the tests Julian Hoppit applies to identify the characteristics of the Westminster parliament—a government prepared to work through, rather than around, parliament, the normalisation of controversy and discord within a resilient legislative process and the use of the legislature by a propertied elite, to

¹ *DIB(I)*, p14

² This arrangement had the advantage of financing troops stationed in Ireland to avoid the prohibition on standing armies in England. Continuous refusal of supply would have made the Irish parliament redundant with the government falling back on enacting supply legislation at Westminster or using the 'Strafford solution' of ruling through orders in council. Union would not only have removed control of taxation to London but also the effective control over the land settlement, economic development and the penal laws, areas that Irish Protestants feared Westminster would put England's interests ahead of theirs.

protect and further their own interests as the state grew—are applied to the Irish House of Commons, they show that it enjoyed a significant degree of self-determination by 1715. With its effective control of the supply process and the consequent need for regular meetings the Commons began—at first tentatively in the 1690s—to borrow and adapt procedures from the post-Revolutionary Westminster parliament, which had the double advantage of updating its procedures and bringing it in appearance and actuality to resemble Westminster.

As was case in Scotland, the Irish House took time to absorb changes emanating from Westminster. There were two turning points. The 1703–04 session (and the following 1705 session) break with the sprawling sessions and some of the methods of doing parliamentary business that characterised the seventeenth century. The two distinct part-sessions emerge: heads were drafted in the first part and then transmitted to London, while the House went into recess, and a second part, when the returned bills were taken through their stages culminating in royal assent followed by prorogation. These arrangements facilitated, and spurred, the ability of the Commons to dominate the initiation of legislation. Those outside parliament who wanted legislation quickly learned how the system worked and the consequent need to start the process early in the first part-session. This pattern of distinct part-sessions divided by a transmission recess held good to 1782.

Other changes from 1703 can be detected. From this time the House drew back from direct executive action in favour of parliamentary processes such as inquiry, pronouncement, legislation or impeachment. Processes and procedures appear to be more consistent and systematic. The searching for, and use of, Irish precedents receded and no Westminster precedents were cited after the 1690s. Instead, changes—often direct copies of Westminster procedures—were introduced as *standing orders* (itself a Westminster term that finally replaced the older *standing rule* still used in Dublin into the 1690s after it fell out of use at Westminster) or being in accordance with the 'constitution of parliament'. (This is an abstract and euphemistic term that carried the meaning of the ideal, correct, ancient, accepted and English way of doing things.) One of the most striking examples is the turn-around on Members being able to resign. The House's resolution in March 1704/5 to prohibit Irish MPs from resigning was such a case. It flew in the face of Irish precedents stretching back over the previous century. But it was a unanimous and clearly self-conscious decision justified in terms of ensuring the Commons was operating in accordance with

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the 'constitution of parliament'. In this context that meant parity of status of both Members and the House with Westminster. Such a change resonated with emerging patriotic sensibilities and cost little in terms of provoking either the government or parliament in London. It raised no constitutional issues, and the authorities in London, apparently, took no notice. In the 1703–04 session for the first time a monarch replied directly to an address from the Irish Commons, which greatly pleased Members. In addition, following Westminster, the Irish House began returning addresses of thanks for the speech from the throne at the opening of the session. Both these developments enhanced the status of the Irish parliament in the eyes of its own Members and those outside. From the 1703–04 session, adopting Westminster procedures and practices not only assisted the efficient operation of the Commons but also bolstered its status and the growing expectation of permanency.

The second turning point is the 1715–16 session, which in large measure marks the end of the period of change. By this time the Irish House of Commons had adapted itself to become an 'institution'. The Commons that emerged by the first session of the reign of George I was a settled and permanent body. Notwithstanding tensions and messy compromises, in its settled form it proved remarkably resilient. In the years from 1715 to 1730 the pace of procedural change and development slowed, though not to a complete standstill as some changes continued to be made such as the alternation in supply arrangements, to support the national debt. In part this was due to the settling of the political situation in Britain and Ireland and the exhaustion in the supply of parliamentary innovations that could be imported from Westminster. In addition, the dying down of the rage of party after 1715 and the near monopoly that local families established over seats in parliament gave the system stability (though not immunity from local squabbles). While there were periods of high political tension such as Wood's halfpence, compared to the 21 years from 1692, the sessions after 1715 were subdued and workmanlike.

That the Commons followed, and adapted, Westminster precedents, but without explicitly acknowledging their provenance, throws a light on the nature and limits of Irish Protestants' constitutional patriotism at the beginning of the eighteenth century. It was not only procedures that the Commons copied. Each session the Commons appointed a committee to examine what English laws should be replicated, a significant spur to the production of public legislation. There was no compunction about copying from the Westminster statute book; the point was that the

Commons chose and adapted legislation as it saw fit, and this sits with Hoppit's finding in Britain that within the ruling elite there was readiness to examine laws that needed reformed.³ In Ireland the process was institutionalised by means of a committee that examined and drew up a list of statutes that would be beneficial to apply in Ireland. The initiative for much public legislation rested with the Commons—in the face of benign indifference of the administration and the facility Poyning's Law provided to the government to amend and, if necessary, veto—and the Commons used it extensively and increasingly from Anne's reign, to legislate in a variety of areas, from economic improvement to underpinning sectarian advantage. Significantly, both these areas were the focus of much of the growing number and range of publications produced in Dublin. The poor state of Ireland's economy and panaceas feature in publication ranging from the thoughtful to the polemical from the reign of William III. The Commons responded with a steady stream of improvement legislation, much of which roused the opposition of British interests.⁴ The sectarian dimension not only ran through the legislation emerging from the Commons but also coloured how it operated its procedures. There is some evidence that the Commons used its powers, in order to enforce its privileges more harshly against Catholics. A Catholic petitioner against legislation had a better chance of success in pressing his or her case in Whitehall. Often those heard in Dublin were allowed to go through the motions for the sake of form.

Ireland's institutions and systems of governance were, unlike Scotland's, based on England's and the centripetal forces stronger than those in Scotland before 1707. Many of those who sat in the Dublin parliament were familiar with, and integrated within, English systems of governance as were the administrators who worked in the Irish parliament. The degree to which England and Ireland were locked in step is remarkable: the similarities ran from the rage of party, through the use and popularity of procedures such as impeachment to father-and-son clerks. The history of the Irish Commons looking to Westminster for procedural guidance since at least the sixteenth century was reinforced by personal contacts. The clerks in the Dublin House of Commons had links to England and connections with the English bureaucracy. In addition, clerks who worked in Westminster may have visited Dublin. After 1692 these links were supplemented with the

³ Hoppit, *Land*, p.135

⁴ See Hoppit, *Parliaments*, pp.7, 103ff, note that in percentage terms Dublin produced much more public legislation than Westminster; other reasons were the emphasis on penal legislation, less local improvement and less regional diversity in Ireland.

Chapter 5: Conclusions on the operation, practices and procedures of the Irish House of Commons from 1692 to 1730

publication of Westminster's printed *Votes* providing easy access to, and intelligible, procedural guidance and a route for English procedures to be adopted. It was not necessary to rely on increasingly out-of-date manuals as the *Votes*, suitable annotated and indexed, provided the latest parliamentary guidance. Notwithstanding the frustration of some lords lieutenant and chief secretaries at their inability to exercise 'party' control and some sneering at the pretensions of those who sat in the Commons, the administrative geography and etiquette and norms of civility of the Irish parliament was recognisably the same as that at Westminster and understood to be so. Even the tactics used in the Commons and procedures employed by those supporting and opposing government measures—the dilatory motion and the use of rhetoric and argument—were common tools used at Westminster.

To make the parliamentary arrangements work, skill combined with compromise was required. The procedures also had flexibility which meant they could be adapted, or exploited, to the ends of those who could command the House. There was no point importing Westminster procedures unless they served a purpose. The Commons neither followed slavishly nor imported every procedural change and development at Westminster. Its processes were developed from 1703, to become responsive to the needs, and protect the predominance, of the Protestant ruling class and its supporters. It was happy to claim control of supply but ignored changes in procedure made at Westminster at the beginning of the eighteenth century that required the crown to sanction expenditure proposals; these would have undermined the compromise established after the 'sole right' struggle and were unsuitable to be applied to heads process.

One tangled area was private legislation, where there was overlapping jurisdiction between Dublin and Westminster. As Hoppit, Innes and Styles note, the initiation of private legislation was an investor-led process which was not cheap, particularly if there was going to be opposition. The process made both parliaments responsive to sectional interests.⁵ Rather than attempt to challenge Westminster's right to legislate, which was probably an unsustainable approach, the Irish parliament sought to undercut Westminster in terms of fees and process. The Irish procedures follow the spirit but not the letter of English procedures. The process was in broad terms the same: a petition had to be made in a set form and request redress of a grievance; the

⁵ Hoppit, 'Towards a History', p.319

House considered the merits and, in the case of a request for private legislation, informed all parties with an interest; and the House reached a view. But the parliaments' processes were not identical. The Irish House did not introduce Westminster's system of standing orders applying to private bills. The Irish processes had less judicial rigour, possibly because of the less prominent position of the House of Lords but also because the immediate outcome of a successful private petition in Dublin was a heads of a bill. In other words the threshold to start the process was lower than at Westminster—legal scrutiny came later when the heads reached the Irish and British Privy Councils. The clearer delineation of the procedures from the 1690s not only improved handling but gave those seeking private legislation confidence in how to proceed. The success rate of petitions for private legislation improved after the 1690s and the Irish parliament's share of enacted private legislation applicable to Ireland settled at around 50%.

The arrangements that settled around the operation of Poyning's Law show how pragmatic compromise and hard-headed adaptation allowed the Commons to develop and how it had some un-Westminster consequences on the Irish House of Commons. The heads process of producing draft legislation pulled the legislative initiative away from the Irish and English Privy Councils to the Irish parliament. It did so in a manner, however, that was anomalous in a bicameral legislature. It skewed the legislative balance in favour of the House initiating the heads, predominantly the Commons. The heads process twisted and hollowed out some Westminster procedures, particularly draining the substance out of post-transmission bill procedures, when applied in the Irish House of Commons. Even the procedural innovation of a committee to check the extent of changes made to heads by the privy councils was usually only a monitoring feature of, rather than an obstacle to, the legislative process.⁶ From a questionable legislative record in the 1690s the heads process propelled the Commons to both legislative success and dominance.

The pattern of managing business employed by the government—undertakers and agents—was replicated, though on a smaller scale for other business. Members skilled in the procedures of the House—often also officials in the administration—operated as *mini*-undertakers for the interests promoting items of private and public business. In most cases they would have been paid. The

⁶ Bergin, 'Irish Legislative Procedure', p.192, drawing on J.L. McCracken, 'Central and local administration in Ireland under George II' (unpublished Ph.D. thesis, Queen's University Belfast, 1948) points out that later in the eighteenth century however the procedure became politically much more important, when the committees of comparison compared returned bills with the heads of bills; on the evidence it would appear that this process started in the reign of George I in the 1720s..

focus on the top-level undertaking—the shepherding of administration business—and the tendency to see many parliamentary proceedings in partisan terms of Whig and Tory has too often coloured the way historians have seen the operation of parliament. Neither permeated every aspect of business.

The functions of, and procedures that applied to, Speakers in the Irish House of Commons overlapped with those of Speakers at Westminster in terms of their election and the bureaucratic organisation of business, an essential prerequisite to the efficient operation of the House. But they had additional tasks which today would be classed as business management, especially whipping Members to support (mostly in Conolly's case) or oppose (often in Brodrick's case) the administration's proposals. Although there was much criticism of the Speakers, there were limitations on their ability to manipulate. The House could, and did, assert itself to overrule the Speaker both on measures such as the relief of dissenters and on procedures when the House removed Brodrick from questioning witnesses at the bar.

The Irish parliament, and in particular the Commons, that emerged in the 1690s had a model for functional and operational development in the post-1688 House sitting at Westminster. It was keenly aware of the Westminster model and developed itself to initiate legislation and tax-authorising powers, which were critical to the solvency of the administration. The administration took it and its activities seriously but, except on supply and legislation of importance to the administration, gave the Commons a large degree of freedom to manage its business. The Commons sat at the junction of the relationship between Britain, Irish politics, administration, social change and the interface between the local and the national and provided legal sanction to the confessional state. As an almost exclusively Anglo-Irish institution it also provided a protected arena for intra-Protestant rivalries as well as space for *patriot* ideology to form, develop and express itself. These procedures had enough resilience to allow competing factions and interests within the Anglo-Irish to manage their differences without resort to violence or the legislature becoming irrelevant or it being shut down.

6 Appendices

6.1 Parliaments and parliamentary sessions from 1692 to 1730

Session No.	Session started, first sitting day	Session ended, last sitting day	Adjournments longer than 2 days (and prorogations) ¹ Dates are inclusive	Days adjourned / in recess	No. of sitting days	Estimate of late sittings ²
First parliament of William III and Mary II, 1692–93; sat from 5 Oct 1692; dissolved 26 June 1693						
1	5 Oct 1692	3 Nov 1692			25	5 (20%)
			(3 Nov prorogued to 6 Apl 1693)			
			(27 Mar prorogued to 6 June 1693)			
			(17 May prorogued to 5 Sep 1693)	(234)		
			Dissolved 26 June 1693	792		
Second parliament of William III, 1695–99; sat from 27 Aug 1695; dissolved 14 June 1699						
1	27 Aug 1695	3 Dec 1697			166	30 (18%)
			29 Oct-17 Nov 1695	20		
			15 Dec 1695–27 Mar 1696	106		
			29 Mar-26 June 1696	90		
			28 Jun-3 Aug 1696	37		
			5 Aug-7 Sep 1696	34		
			9–21 Sep 1696	13		
			23–29 Sep 1696	7		
			2–14 Oct 1696	13		
			16–28 Oct 1696	13		
			30 Oct-11 Nov 1696	13		
			13 Nov 1696–15 Mar 1696/7	124		
			17 Mar 1696/7–10 May 1697	55		
			12 May-14 June 1697	34		
			16 Jun-26 July 1697	41		
			26 Sep-19 Oct 1697	24		
			21–25 Oct 1697	5		
			27 Oct-1 Nov 1697	6		
			4–7 Nov 1697	4		
			(3 Dec prorogued to 10 May 1698)			
			(27 Apl prorogued to 7 June 1698)			
			(2 June prorogued to 5 July 1698)			
			(30 June prorogued to 13 Sep 1698)			
			(29 Aug prorogued to 27 Sep 1698)	(298)		
2	27 Sep 1698	26 Jan 1698/9			80	15 (19%)
			28 Sep-30 Sep 1698	3		
			4–19 Dec 1698	16		
			21–26 Dec 1698	6		
			30 Dec 1698–1 Jan 1698/9	3		
			(26 Jan prorogued to 30 May 1699)			
			(12 May prorogued to 28 Sep 1699)	(139)		
			Dissolved 14 June 1699	1,560		
First parliament of Anne, 1703–13; sat from 21 Sep 1703; dissolved 6 May 1713						
1	21 Sep 1703	4 Mar 1703/4			80	15 (19%)
			28 Nov 1703–10 Jan 1703/4	44		
			12–19 Jan 1703/4	8		
			21–24 Jan 1703/4	4		

¹ Prorogations taken from *CJI* and *Proclamations*, vols. 2 and 3; they are not comprehensive.

² These are tentative figures based on references in primary sources to late sittings and motions to bring in candles and adjourn all committees; such motions disappeared after 1715.

Session No.	Session started, first sitting day	Session ended, last sitting day	Adjournments longer than 2 days (and prorogations) ¹ Dates are inclusive	Days adjourned / in recess	No. of sitting days	Estimate of late sittings ²
			29–31 Jan 1703/4	3		
			5–7 Feb 1703/4	3		
			(4 Mar prorogued to 3 Oct 1704)			
			(25 Sep prorogued to 10 Feb 1704/5)	(342)		
2	10 Feb 1704/5	16 June 1705			59	5 (9%)
			11–13 Feb 1704/5	3		
			2–9 May 1705	8		
			11–14 May 1705	4		
			27–29 May 1705	3		
			(16 June prorogued to 13 June 1706)			
			(27 May prorogued to 4 Mar 1706/7)			
			(15 Feb prorogued to 13 May 1707)			
			(1 May prorogued to 23 June 1707)			
			(5 June prorogued to 1 July 1707)	(745)		
3	1 July 1707	30 Oct 1707			68	10 (15%)
			2–5 July 1707	4		
			15 Aug 1707–19 Sep 1707	36		
			(30 Oct prorogued to 6 May 1708)			
			(27 Apl prorogued to 28 Feb 1708/9)			
			(15 Jan prorogued to 28 Apl 1709)			
			(22 Apl prorogued to 5 May 1709)	(553)		
4	5 May 1709	30 Aug 1709			68	5 (7%)
			12–14 June 1709	3		
			30 Jun–27 July 1709	28		
			29 Jul–4 Aug 1709	7		
			(30 Aug prorogued to 30 Mar 1710)			
			(9 Mar prorogued to 27 Apl 1710)			
			(27 Apl prorogued to 11 May 1710)			
			(8 May prorogued to 19 May 1710)	(262)		
5	19 May 1710	28 Aug 1710			51	5 (10%)
			28–30 May 1710	3		
			25 Jun–31 July 1710	37		
			(28 Aug prorogued to 8 Mar 1710/1)			
			(2 Mar prorogued to 1 May 1711)			
			(27 Apl prorogued to 31 May 1711)			
			(26 May prorogued to 18 June 1711)			
			(12 June prorogued to 9 July 1711)	(315)		
6	9 July 1711	9 Nov 1711			53	5 (9%)
			12 Aug–19 Sep 1711	39		
			21 Sep–3 Oct 1711	13		
			5–9 Oct 1711	5		
			(9 Nov prorogued to 2 Sep 1712)			
			(29 Aug prorogued to 19 Feb 1712/3)			
			(7 Feb prorogued to 21 May 1713)	(544)		
			Dissolved 6 May 1713	203		
Second parliament of Anne, 1713–14; sat from 25 Nov 1713; dissolved 1 Aug 1714 (Anne's death)						
1	25 Nov 1713 ³	24 Dec 1713			26	10 (38%)
			25 Dec 1713–14 Jan 1713/4			
			(4 Jan prorogued to 18 Jan 1713/4)			
			(14 Jan prorogued to 27 Jan 1713/4)			
			(Date?) prorogued to 3 Feb 1713/4)			

³ Parliament was due to meet 20 Nov 1713 but on 19 Nov it was prorogued to 25 Nov.

Session No.	Session started, first sitting day	Session ended, last sitting day	Adjournments longer than 2 days (and prorogations) ¹ Dates are inclusive	Days adjourned / in recess	No. of sitting days	Estimate of late sittings ²
			(24 July prorogued to 12 Oct 1714)			
			(1 Feb prorogued to 10 Aug 1714)	(220)		
			Anne's death (1 Aug 1714)	468		
Parliament of George I, 1715–27; sat from 12 Nov 1715; dissolved 11 June 1727 (death of monarch)						
1	12 Nov 1715	20 June 1716			93	4 (4%)
			23 Dec 1715–15 Jan 1715/6	24		
			10–19 Feb 1715/6	10		
			21 Feb–7 Mar 1715/6	15		
			10 Mar 1715/6–28 Mar 1716	19		
			30 Mar–2 May 1716	4		
			4–9 May 1716	6		
			20–23 May 1716	4		
			(20 June prorogued to 25 Aug 1716)			
			(15 Aug prorogued to 25 Sep 1716)			
			(22 Sep prorogued to 12 Oct 1716)			
			([Several?] prorogations to 1 July 1717)			
			(11 June prorogued to 15 Aug 1717)			
			([Date?] prorogation to 27 Aug 1717)	(432)		
2	27 Aug 1717	23 Dec 1717			69	1 (1%)
			13 Oct–6 Nov 1717	25		
			21–24 Nov 1717	4		
			14–18 Dec 1717	5		
			(23 Dec prorogued to 14 Aug 1718)			
			(18 July prorogued to 19 June 1719)			
			([Date?] prorogued to 26 June 1719)	(550)		
3	26 June 1719	2 Nov 1719			69	0 (0%)
			27–30 June 1719	4		
			13 Aug–9 Sep 1719	28		
			22–27 Sep 1719	6		
			(2 Nov prorogued to 14 Dec 1719)			
			(8 Dec prorogued to 23 June 1720)			
			(16 June prorogued to 20 Sep 1720)			
			(27 Aug prorogued to 24 Mar 1721)			
			(6 Mar prorogued to [Date?])			
			([Several?] prorogations to 12 Sep 1721)	(678)		
4	12 Sep 1721	18 Jan 1721/2			73	1 (1%)
			12 Nov–5 Dec 1721	4		
			22 Dec 1721–2 Jan 1721/2	12		
			(18 Jan prorogued to 13 Feb 1721/2)			
			([Several?] prorogations to 25 Mar 1722/3)			
			([Several?] prorogations to 29 Aug 1723)	(587)		
5	29 Aug 1723	10 Feb 1723/4			95	0 (0%)
			30 Aug–4 Sep 1723	6		
			16 Nov–11 Dec 1723	26		
			25 Dec 1723–6 Jan 1723/4	13		
			24–26 Jan 1723/4	3		
			(10 Feb prorogued to 7 Mar 1723/4)			
			(3 Mar prorogued to 27 Aug 1724)			
			(7 July prorogued to 24 Mar 1724/5)			
			([Single?] prorogation to 6 Aug 1725)			
			(20 July prorogued to 7 Sep 1725)	(635)		
6	7 Sep 1725	8 Mar 1725/6			76	0 (0%)
			8–20 Sep 1725	6		
			26–29 Sep 1725	4		
			1–5 Oct 1725	5		

Session No.	Session started, first sitting day	Session ended, last sitting day	Adjournments longer than 2 days (and prorogations) ¹ Dates are inclusive	Days adjourned / in recess	No. of sitting days	Estimate of late sittings ²
			9–11 Oct 1725	3		
			19 Dec 1725–26 Jan 1725/6	39		
			28 Jan–16 Feb 1725/6	20		
			18–23 Feb 1725/6	6		
			(8 Mar prorogued to 14 Apl 1725)			
			([Several?] prorogations to 14 Apl 1726)			
			(25 Mar prorogued to 17 May 1726)			
			(4 May prorogued to 11 Aug 1726)			
			(28 July prorogued to 23 Mar 1726/7)			
			(At least one further prorogation)	(460)		
			George I's death (11 June 1727)	170		
Parliament of George II, 1715–27; sat from 12 Nov 1715; dissolved 1760 (death of monarch)						
5	28 Nov 1727 ⁴	6 May 1728			82	0 (0%)
			24 Dec 1727–8 Jan 1727/8	16		
			22 Feb–11 Mar 1727/8	19		
			20 Mar 1727/8–1 Apl 1728	13		
			19–25 Apl 1728	7		
			(6 May prorogued to 4 June 1728)			
			([Two?] prorogations to 19 Dec 1728)			
			(13 Dec prorogued to 17 Apl 1729)			
			(29 Mar prorogued to 21 Aug 1729)			
			(25 July prorogued to 23 Sep 1729)	(504)		
6	23 Sep 1729	15 Apl 1730			97	1 (1%)
			27 Sep–5 Oct 1729	9		
			7–12 Oct 1729	6		
			24–28 Dec 1729	5		
			4 Jan–9 Feb 1729/30	37		
			11–23 Feb 1729/30	13		
			1–8 Mar 1729/30	8		
			21 Mar 1729/30–1 Apl 1730	12		
			(15 Apl prorogued to 14 May 1730)			
			(12 May prorogued to 22 Dec 1730)			
			(2 Dec prorogued to 22 Apl 1731)			
			(7 Apl prorogued to 2 Sep 1731)			
			(19 Aug prorogued to 5 Oct 1731)	(551)		

⁴ Parliament was due to meet 14 Nov 1727 but on 4 Nov it was prorogued to 28 Nov.

6.2 Speakers of the House of Commons (1613 to 1730)

Sir John Davies	18 May 1613 ¹ –24 Oct 1615 ²
Sir Nathaniel Catelyn	14 July 1634 ³ –18 Apl 1635 ⁴
Sir Maurice Eustace	16 Mar 1639/40 ⁵ –20 Jan 1648/9 ⁶
Sir Audley Mervyn	8 May 1661 ⁷ –6 Sep 1661
Sir John Temple	6 Sep 1661 ⁸ –1 May 1662
Sir Audley Mervyn	1 May 1662 ⁹ –8 Aug 1666 ¹⁰
Sir Richard Nagle	7 May 1689 ¹¹ –[20?] July 1689
Sir Richard Levinge	5 Oct 1692 ¹² –26 June 1693 ¹³
Robert Rochfort	27 Aug 1695 ¹⁴ –14 June 1699 ¹⁵
Alan Brodrick	21 Sep 1703 ¹⁶ –24 Dec 1709 ¹⁷
John Forster	19 May 1710 ¹⁸ –6 May 1713 ¹⁹
Alan Brodrick	25 Nov 1713 ²⁰ –1 Aug 1713 ²¹
William Conolly	12 Nov 1715 ²² –11 June 1727 ²³ 28 Nov 1729 ²⁴ –13 Oct 1729 ²⁵
Sir Ralph Gore	13 Oct 1729 ²⁶ –23 Feb 1733 ²⁷

¹ J. McCavitt, 'Fracas', p.228

² 16 May 1615 last sitting day; dissolved 24 Oct 1615 (*CJI(I)*, p.58)

³ *CJI(I)*, p.63

⁴ Last sitting day of session

⁵ *CJI(I)*, p.133

⁶ Last sitting day of session 17 June 1647; House appears to have assembled 15 June 1648 when Eustace was voted unanimously into Chair but adjourned immediately until 17 Mar 1649; it never met again. Technically parliament dissolved on death of Charles I (30 Jan 1649 (NS)).

⁷ *CJI(I)*, p.386, 8 May, elected; 11 May approved by lords justices (p.387)

⁸ *CJI(I)*, p.449, 6 Sep; Temple was Speaker while Mervyn in England

⁹ *CJI(I)*, p.494; 1 May Mervyn resumed Chair

¹⁰ *CJI(I)*, p.386, 8 Aug 1666 Parliament dissolved; 7 Aug 1666 last date House sat

¹¹ [William King], *A True account of the Whole Proceedings of the Parliament in Ireland* (London, 1689), p.2

¹² *CJI(II)*, p.9, 5 Oct elected; 10 Oct approved by lord lieutenant (p.10)

¹³ Date of dissolution; 3 Nov 1692 last day House sat

¹⁴ *CJI(II)*, p.43, 27 Aug elected; 29 Aug approved by lord deputy

¹⁵ *CJI(II)*, p.310, 24 June 1699 dissolved; 26 Jan 1698/9 last day House sat

¹⁶ *CJI(II)*, p.315, 317, 21 Sep elected; 25 Sep approved by lord lieutenant

¹⁷ Brodrick was appointed Lord Chief Justice of Court of Queen's Bench 24 Dec 1709 (*HIP(II)*, p.398); 'called up to the House of Lords' (*CJI(II)*, p.643)

¹⁸ *CJI(II)*, p.644, elected 19 May; 20 May approved by lord lieutenant

¹⁹ Date of dissolution; 9 Nov 1711 last day House sat

²⁰ *CJI(II)*, p.743, Brodrick elected 25 Nov; 26 Nov approved by lord lieutenant

²¹ *CJI(II)*, p.777, 1 Aug 1714 dissolved on death of Anne; 24 Dec 1713 last sitting day

²² *CJI(III)*, p.9, elected and approved on same day

²³ Death of George I (11 June 1727)

²⁴ *CJI(III)*, p.463, elected and apparently approved on same day

²⁵ *CJI(III)*, p.583; resigned due to ill-health.

²⁶ *CJI(III)*, p.583, 13 Oct 1729 elected; probably approved on 14 Oct

²⁷ Date of death

6.3 Chairmen and activities of principal committees

6.3.1 Chairmen of the Committee of Privileges and Elections

Session²⁸

1692²⁹

Alan Brodrick (reports on behalf of the committee on 29 Oct and 1 Nov 1692)

1695–97³⁰

Alan Brodrick (reports on behalf of the committee on 11, 13, 18, 20 and 21 Sep, 19 and 24 Oct, 5 Dec 1695)

Sir John Meade (reports on behalf of the committee on 26 Sep and 11 Dec 1695)

John Weaver (reports on behalf of the committee on 28 Sep 1695)

(1697)

Robert Molesworth³¹ (reports on behalf of the committee on 12 and 21 Aug, 15 Sep 1697)

Edward Singleton (reports on behalf of the committee on 8 Sep 1697)

1698–99³²

Alan Brodrick

Thomas Brodrick (reports on behalf of the committee on 15 Nov 1698)

1703–04

Sir Richard Levinge³³

1705

Sir Richard Levinge³⁴

1707

Sir Richard Levinge³⁵

1709

Sir Richard Levinge³⁶

1710

Sir Richard Levinge³⁷

1711

Sir Richard Levinge³⁸

1713

John Forster³⁹

1715–16

St. John Brodrick⁴⁰

1717

St. John Brodrick⁴¹

²⁸ Dates of reports listed below are from *CJI* entries.

²⁹ In the order setting up committee, Col Echlin is named first (*CJI*(II), p.13) but did not make any reports to the House on behalf of the committee, which were made by Alan Brodrick (pp.29, 32).

³⁰ No MPs are listed in the order appointing committee (*CJI*(II), p.45).

³¹ Lord Chancellor Methuen reported a plot to oust Solicitor General Brodrick when Parliament reconvened in July 1697. Methuen was able to 'counterplot, and got Mr. Molesworth to town, and had him chosen without the least reflection on Mr. Solicitor' (*SP*, 63–359 no.34(stamped 84) (To Secretary of State Vernon, 29 July 1697)).

³² In the order setting up committee, Alan Brodrick is named first (*CJI*(II), p.242) but did not make report back, which was made by Thomas Brodrick (p.267).

³³ Listed first in the order appointing committee (*CJI*(II), p.317) and reported on behalf of the committee (pp.338, 353, 381)

³⁴ Listed first in the order appointing committee (*CJI*(II), p.424) and reported on behalf of the committee (pp.453, 473–74)

³⁵ Listed first in the order appointing committee (*CJI*(II), p.491) and reported on behalf of the committee (pp.508, 518, 542, 551)

³⁶ Although not listed first in the order appointing committee (*CJI*(II), p.570), which position fell to Mr Recorder (presumably, John Forster, recorder of Dublin), Levinge reported on behalf of the committee (pp.601, 612) .

³⁷ Listed first in the order appointing committee (*CJI*(II), p.644 and reported on behalf of the committee (p.655)

³⁸ Listed first in the order appointing committee (*CJI*(II), p.696) and reported on behalf of the committee (p.727)

³⁹ Simms, 'Irish Parliament of 1713', p.87, *Post Boy*, London, 5 Dec 1713; no reports to the House in *CJI*

⁴⁰ A 'Mr Brodrick' was listed first in the order appointing committee (*CJI*(III), p.10) and reported on behalf of the committee (pp.24, 40, 46, 55, 56, 65, 76, 79).

1719	St. John Brodrick ⁴² Richard Tighe (reports on behalf of the committee on 30 Oct 1719)
1721–22	Henry Rose (reports on behalf of the committee 1 Nov 1721) ⁴³ Richard Warburton (reports on behalf of the committee on 11 Nov 1721) Henry Rose (reports on behalf of the committee on 20 Dec 1721, 10, 14 and 27 Jan 1721/2)
1723–24	St. John Brodrick ⁴⁴
1725–26	St. John Brodrick ⁴⁵ Henry Rose (reports on behalf of the committee on 27 Jan 1725/6)
1727–28	Thomas Trotter ⁴⁶
1729–30	Thomas Trotter ⁴⁷

6.3.2 Chairmen of the Grand Committee for Grievances

Session

1692	Robert Rochfort reported on behalf of the committee on 14 and 31 Oct, ⁴⁸ on 20 Oct ⁴⁹ and 3 Nov. ⁵⁰ Thereafter grand committees were appointed at the beginning of each session; no members were named.
1695–97	Sir St. John Brodrick reported on 17 Sep and 12 Oct 1695 ⁵¹ and on 25 Aug 1697 ⁵² and Alan Brodrick on 7 Dec 1695. ⁵³
1703–04	Marmaduke Coghill reported on 28 Sep 1703. ⁵⁴

⁴¹ Although not listed first in the order appointing committee (*CJI*(III), p.120), which honour falls to William Brodrick, St. John reported on behalf of the committee (p.145).

⁴² Listed first in the order appointing committee (*CJI*(III), p.184) and reported on behalf of the committee (p.201, 207); does not act after Aug 1719

⁴³ Joshua Allen was listed first in the order appointing committee (*CJI*(III), p.248) but does not present any recorded reported on behalf of the committee.

⁴⁴ Listed first in the order appointing committee (*CJI*(III), p.315) and reported on behalf of the committee (pp.335, 338, 340)

⁴⁵ Listed first in the order appointing committee (*CJI*(III), p.399) and reported on behalf of the committee (pp.410, 418)

⁴⁶ Listed first in the order appointing committee (*CJI*(III), p.464) and reported on behalf of the committee (pp.486, 488, 489, 498, 502, 505, 510, 512, 516, 520, 524, 525, 533, 543, 546, 555, 562); Hayton classes Trotter as a lieutenant of Speaker Conolly, *Coghill Letters*, p.xv.

⁴⁷ Listed first in the order appointing committee (*CJI*(III), p.580) and reported on behalf of the committee (pp.594, 598, 610, 621)

⁴⁸ *CJI*(II), pp.16, 31

⁴⁹ *CJI*(II), pp.20, 21

⁵⁰ *CJI*(II), p.34

⁵¹ *CJI*(II), pp.63, 88

⁵² *CJI*(II), p.175

⁵³ *CJI*(II), pp.135-36

⁵⁴ *CJI*(II), p.321

6.3.3 Recorded activities of the Grand Committee for Grievances

Oct 1692	Committee reported on the following grievances: (i) Catholics admitted to the militia; (ii) farming of forfeited estates; (iii) Catholics having horses; (iv) need for a select committee to examine Revenue papers. House recommitted committee's opinion on Catholics' access to shipping. ⁵⁵
Oct 1692	Committee reported on extortion by Alexander Gordon, Sword-bearer of the city of Dublin, and William Culliford, commissioner of the Revenue. ⁵⁶
Nov 1692	Committee reported on the seizure of goods, stock and corn and land made without proper authority since 15 Aug 1689 by persons that used the property for their own personal advantage. The House ordered the committee to prepare charges, even if an MP. ⁵⁷
Sep 1695	Committee reported again on extortion by Alexander Gordon, Sword-bearer of the city of Dublin. ⁵⁸
Dec 1695	Committee reported on a petition against William Cloudes concerning penthouses in Dublin and found that he had been making illegal exactions. The House agreed and ordered that Cloudes be taken into custody by the Serjeant-at-Arms. ⁵⁹
Aug 1697	Committee reported on corporation of butchers and quarterage to be paid by butchers in Dublin. ⁶⁰
Sep 1703	Committee reported on the need for legislation to register Catholic clergy; leave was given for heads to be brought in. ⁶¹
Oct 1703	Committee reported two resolutions condemning grand juries for raising money, which the House agreed and referred papers to a committee of the whole House appointed to take into consideration the State of the Nation. ⁶²
Oct 1703	Committee reported that a clause in the charter of company of butchers was 'arbitrate, illegal, and a grievance'. ⁶³
July 1707	Petition against the sub-sheriff of Westmeath was referred to the committee; nothing appears to have happened as the House subsequently referred the petition to a select committee. ⁶⁴

⁵⁵ *CJI(II)*, pp.20-21

⁵⁶ *CJI(II)*, pp.16, 27, 31-33

⁵⁷ *CJI(II)*, pp.34-35

⁵⁸ *CJI(II)*, pp.63, 83

⁵⁹ *CJI(II)*, p.140

⁶⁰ *CJI(II)*, p.175

⁶¹ *CJI(II)*, p.321

⁶² *CJI(II)*, pp.334-35

⁶³ *CJI(II)*, pp.343-45

⁶⁴ *CJI(II)*, pp.511, 537

6.3.4 Chairmen of the Grand Committee for Courts of Justice

Session

1692	Thomas Whitshed reported on behalf of the committee on 25 Oct (on civil bills). ⁶⁵
	Thereafter grand committees were appointed at the beginning of each session; no members were named. ⁶⁶
1695–97	James Sloan reported on behalf of the committee on 26 Sep 1695. ⁶⁷

6.3.5 Recorded activities of the Grand Committee for Courts of Justice

Oct 1692	Committee reported that trials and proceedings by civil bills were arbitrary, illegal and burden to the subject; the House agreed. Committee also recommended the need for heads “to empower the respective judges in their circuits [...] in a summary and cheap way, to determine all differences between party and party in matters of debt not exceeding £10 and in matters for damage not exceeding £5”; the House agreed and instructed the select committee reviewing bills to draft. ⁶⁸
Sep 1695	House order the deputy clerk of Council to deliver abstracts of dockets of fees from time to time as directed by the committee and instructed the committee to examine the fees charged by officials. Committee reported that Revenue collectors were exacting fees from the king's tenants arbitrarily and illegally; the House agreed but recommitted a resolution on the payment of certain officers. ⁶⁹
Nov 1697	House ordered the committee to inquire into the practices and fees of ecclesiastical and other courts; no report recorded. ⁷⁰
Nov 1703	Committee was empowered to sit during the recess to examine and settle dockets of fees returned and empowered it set up sub-committees. ⁷¹

6.3.6 Chairmen of the Grand Committee for Religion

Session

1692	John Osborne listed first on appointment of committee
	Thereafter grand committees were appointed at the beginning of each session; no members were named. ⁷²

⁶⁵ *CJ(II)*, p.26

⁶⁶ Orders appointing committee: *CJ(II)*, pp.12, 45, 242, 316, 424, 491, 576, 644, 696, 744; (III) 10, 120, 184, 248, 315, 399, 464, 580

⁶⁷ *CJ(II)*, pp.72-74

⁶⁸ *CJ(II)*, p.26

⁶⁹ *CJ(II)*, pp.71-73

⁷⁰ *CJ(II)*, p.213

⁷¹ *CJ(II)*, p.388; there is no evidence that the grand committee reported; subsequently the review of dockets and fees was carried out by select committees—see *CJ(II)*, p.751 (2 Dec 1713).

⁷² Orders setting up committee: *CJ(II)*, pp.12, 45, 242, 316, 424, 491, 576, 644, 696, 744; (III) 10, 120, 184, 248, 315, 399, 464, 580

1695–97

Sir Richard Bulkeley reported on 9 Sep 1697⁷³ and on 15 Nov 1697.⁷⁴

6.3.7 Recorded activities of the Grand Committee for Religion

Sep 1697

Committee reported that John Toland's book, "'Christianity not mysterious" contained several heretical doctrines contrary to the Christian religion and ... of the Church of Ireland' and it was of the opinion that the 'book be publicly burned by the common hangman'. The House then proceeded to order the serjeant-at-arms to take Toland into custody and ordered the attorney general to prosecute him. The House prescribed arrangements for the burning, which was to take place on College Green in front of Chichester House.⁷⁵

Nov 1697

Committee reported—subject not specified.⁷⁶

6.3.8 Chairmen of the Grand Committee for Trade

Session

1692

Sir Francis Brewster reported on behalf of the committee on 17 Oct.⁷⁷

Thereafter grand committees were appointed at the beginning of each session; no members were named.⁷⁸

1695–97

Sir Francis Brewster reported on 23 Sep⁷⁹ and 16 Oct 1695 and on 28 Aug⁸⁰ and 3 Sep 1697.⁸¹

1703–04

John Forster reported on 7 Oct⁸² and 1 Nov.⁸³

1727–28

William Maynard reported on 5 Feb.⁸⁴

1729–30

Samuel Burton reported on 6 Dec.⁸⁵

6.3.9 Reported activities of the Grand Committee for Trade

Oct 1692

Committee reported on bringing Silesian Protestants to Ireland.⁸⁶

Oct 1692

Committee reported on the need for legislation for a commission of sewers; resolution lay on the Table.⁸⁷

⁷³ *CJI*(II), p.190

⁷⁴ *CJI*(II), p.216

⁷⁵ *CJI*(II), p.190

⁷⁶ *CJI*(II), p.216

⁷⁷ *CJI*(II), pp.18, 31-32

⁷⁸ Orders appointing committee: *CJI*(II), pp.12, 45, 242, 316, 424, 491, 576, 644, 669, 744; (III) 10, 120, 184, 248, 315, 399, 464, 580

⁷⁹ *CJI*(II), pp.68-69, 94-95

⁸⁰ *CJI*(II), p.178

⁸¹ *CJI*(II), p.184

⁸² *CJI*(II), p.329

⁸³ *CJI*(II), p.354

⁸⁴ *CJI*(III), pp.501, 516, 520

⁸⁵ *CJI*(III), pp.603, 611

⁸⁶ *CJI*(II), p.18

Oct 1692	Committee reported its opinion that the lord lieutenant should renew the application to king and queen to guard Irish seas; the House sent privy counsellors to the lord lieutenant. ⁸⁸
Sep-Oct 1695	Petitions referred to the committee from (i) weavers on the shortcomings of legislation and the misdemeanours of the alnagers, (ii) Dublin merchants for a bank, (iii) bakers on the regulation of the price of bread and (iv) felt-makers for the same laws as in England to protect trade and apprenticeships. ⁸⁹
Sep 1695	Committee reported in favour of a duty on linen imports from Scotland, on export of timbers and casks and on brandy. ⁹⁰
Oct 1695	Committee reported on the woollen manufacture and recommended the appointment of a select committee to prepare legislation on the regulation of woollen manufacture and to include provision on alnagers' fees; the House appointed a select committee to prepare legislation. ⁹¹
Aug 1697	Committee reported on money weights sold by Henry Paris and John Cuthbert; the House ordered them to be taken into custody and attorney general to prosecute. ⁹²
Sep 1697	Committee reported on the need for duties on import of paper, pasteboard and playing cards (except from England), to encourage Irish paper manufacture. ⁹³
Oct 1703	Committee reported on the need to improve maritime security against privateers impeding trade between Ireland and England; the House agreed and sent privy counsellors to the lord lieutenant. ⁹⁴
Nov 1703	Committee reported in favour of Robert Pease having a monopoly for five years on the production of black soap from rape oil. The method for achieving the monopoly was to insert a clause into legislation encouraging the linen industry. ⁹⁵
Feb 1727/8	Committee reported on Dublin Merchants' petition to improve trade, which covered disputes with Revenue officers and payments of duties, and it recommended legislation to prevent abuses by officers; the House agreed and order the drawing up of legislation. ⁹⁶

⁸⁷ *CJI(II)*, p.31

⁸⁸ *CJI(II)*, p.32

⁸⁹ *CJI(II)*, pp.62-63, 92-93, 101; a select committee to consider the improvement of trade was appointed on 4 Oct 1695 (p.79).

⁹⁰ *CJI(II)*, pp.68-69

⁹¹ *CJI(II)*, pp.94-95

⁹² *CJI(II)*, p.178

⁹³ *CJI(II)*, p.184

⁹⁴ *CJI(II)*, p.329

⁹⁵ *CJI(II)*, p.354

⁹⁶ *CJI(III)*, pp.501, 516, 520

Dec 1729

Committee reported on Dublin Merchants' petition on smuggling and recommended legislative changes to tighten the management of permits and payment of duties.⁹⁷

6.3.10 Chairmen of the Committee on Supply

Session⁹⁸

1692	Henry Boyle
1695–97	Thomas Brodrick (1695), Alan Brodrick (1697)
1698–99	Alan Brodrick
1703–04	Stephen Ludlow
1705	Stephen Ludlow
1707	Stephen Ludlow
1709	Stephen Ludlow
1710	Stephen Ludlow
1711	Stephen Ludlow
1713	Stephen Ludlow
1715–16	Sir Ralph Gore
1717	Sir Ralph Gore
1719	Sir Ralph Gore
1721–22	Sir Ralph Gore
1723–24	Sir Ralph Gore
1725–26	Sir Ralph Gore
1727–28	Sir Ralph Gore
1729–30	Marmaduke Coghill

6.3.11 Chairmen of the Committee on Ways and Means

Session⁹⁹

1692	Henry Boyle
1695–97	Thomas Brodrick (1695), Alan Brodrick (1697)
1698–99	Alan Brodrick
1703–04	Stephen Ludlow
1705	Stephen Ludlow
1707	Stephen Ludlow
1709	Stephen Ludlow
1710	Stephen Ludlow
1711	Stephen Ludlow
1713	¹⁰⁰
1715–16	Sir Ralph Gore
1717	Sir Ralph Gore

⁹⁷ *CJ*(III), pp.603, 611

⁹⁸ Entries are based on MPs listed in *CJ* as reporting to the House from the committee.

⁹⁹ *As above*

¹⁰⁰ House prorogued before it reached Ways and Means; presumably Ludlow would have chaired.

1719	Sir Ralph Gore
1721–22	Sir Ralph Gore
1723–24	Sir Ralph Gore
1725–26	Sir Ralph Gore
1727–28	Sir Ralph Gore
1729–30	Marmaduke Coghill

6.3.12 Chairmen of the Committee on the State of the Nation

Session ¹⁰¹	See Appendix 6.17 for subjects of reports.
1692	Thomas Brodrick ¹⁰²
1695–97	Robert Molesworth reported Sep 1695, ¹⁰³ Sir John Meade in Oct 1695. ¹⁰⁴
1698–99	- ¹⁰⁵
1703–04	Robert Molesworth ¹⁰⁶
1705	Robert Rochfort ¹⁰⁷
1707	John Forster ¹⁰⁸
1709	-
1710	-
1711	-
1713	-
1715–16	Henry Maxwell ¹⁰⁹
1717	-
1719	-
1721–22	-
1723–24	James Macartney ¹¹⁰
1725–26	-
1727–28	-
1729–30	Eaton Stannard ¹¹¹

¹⁰¹ Entries are based on MPs listed in *CJ* as reporting from committee.

¹⁰² *CJ*(II), pp.26, 28

¹⁰³ *CJ*(II), pp.65, 69

¹⁰⁴ *CJ*(II), p.89

¹⁰⁵ *CJ*(II), p.272; the committee met on 21 Nov 1698 but the name of the chairman is not recorded.

¹⁰⁶ *CJ*(II), pp.330, 333

¹⁰⁷ *CJ*(II), pp.467-68, 470, 472, 480

¹⁰⁸ *CJ*(II), pp.504, 506, 511

¹⁰⁹ *CJ*(III), pp.23, 37

¹¹⁰ *CJ*(III), pp.322-23

¹¹¹ *CJ*(III), pp.589, 591-92, 598, 609, 611, 613, 616, 643

6.3.13 Chairmen of the Committee of Accounts

Session ¹¹²	
1692	Edward Pearce ¹¹³
1695–97	Philip Savage reported on 23 Sep 1695 ¹¹⁴ and William Neave on 13 Dec 1695. ¹¹⁵
1703–04	Laurence Clayton
1705	Philip Savage
1707	William Conolly
1709	William Conolly
1710	Henry Maxwell
1711	Samuel Dopping
1713	Oliver St. George ¹¹⁶
1715–16	James Barry
1717	Francis Harrison ¹¹⁷
1719	Francis Harrison
1721–22	Francis Harrison
1723–24	Sir Ralph Gore
1725–26	Richard Warburton
1727–28	Sir Thomas Taylor ¹¹⁸
1729–30	Sir Thomas Taylor

6.3.14 Chairmen of the Committee on (New/Expiring) Laws

Session ¹¹⁹	
1692	John Osborne (to examine English laws since 10 Henry VII fit to be enacted in Ireland) ¹²⁰
1695–97	John Weaver Sr. (to examine English laws fit to be enacted in Ireland) ¹²¹
1698–99	Stephen Ludlow (to examine laws in force but not yet printed) ¹²²
1703–04	Anderson Saunders (to examine English laws fit to be enacted in Ireland) ¹²³

¹¹² Entries are based on MPs listed in *CJ* as reporting from the committee or the first named in list of MPs appointed to the committee and, in a few instances from 1703, named as chairman in a vote of thanks from the House.

¹¹³ *CJ*(II), p.20; Pearce was listed first in a committee appointed to examine the Revenue accounts laid before the Committee of Grievances.

¹¹⁴ *CJ*(II), p.69

¹¹⁵ *CJ*(II), p.144

¹¹⁶ *CJ*(II), p.757; listed as first MP in list of appointments to the committee

¹¹⁷ *SP*, 63–377 f.135(stamped 161) (Lord Lieutenant Bolton to Secretary of State Craggs, 9 July 1719)

¹¹⁸ *Coghill Letters*, no.27 (To Edward Southwell, 8 Dec 1727)

¹¹⁹ Entries are based on MPs listed in *CJ* as reporting from the committee.

¹²⁰ *CJ*(II), pp.14, 19

¹²¹ *CJ*(II), pp.48–49, 51, 59, 70, 73, 77, 86, 101–02, 105, 121, 126, 145, 159, 161–62, 169, 183, 185–86, 203; on 17 Sep 1695 the committee was empowered to split into sub-committees (p.64).

¹²² *CJ*(II), p.245; William Molyneux is named second on list of appointments; 28 Nov 1698 Mr Upton (two MPs had this surname) and Sir Richard Bulkeley were ordered to inspect the English laws against clipping and coining and to prepare heads (p.280).

1705	-
1707	Mr Moore (either Charles or John) (to examine what temporary laws to be made perpetual) ¹²⁴
1709	-
1710	-
1713	-
1715–16	Henry Rose (to examine temporary laws that should be continued or revived) ¹²⁵
1717	John Parnell (to examine temporary laws that should be continued or revived) ¹²⁶
1719	-
1721–22	Thomas Trotter (to examine temporary laws that should be continued or revived) ¹²⁷
1723–24	Thomas Upton (to examine temporary laws that should be continued or revived) ¹²⁸
1725–26	Thomas Upton (to examine temporary laws that should be continued or revived) ¹²⁹
1727–28	Thomas Upton (to examine temporary laws that should be continued or revived) ¹³⁰
1729–30	Thomas Upton (to examine temporary laws that should be continued or revived) ¹³¹

6.3.15 Chairmen of committee examining transmitted heads of bills and returned bills

Session¹³²

1692	-
1695–97	William Molyneux ¹³³
1698–99	-
1703–04	-
1705	Mr St. George (three MPs have this title and surname) ¹³⁴
1707	-
1709	-
1710	-
1713	-
1715–16	James Barry ¹³⁵

¹²³ *CJI*(II), pp.320-21

¹²⁴ *CJI*(II), pp.493, 498

¹²⁵ *CJI*(III), p.14

¹²⁶ Although Brinsley Butler is named first in appointment of committee (*CJI*(III), p.123), Parnell reported (pp.125, 148).

¹²⁷ *CJI*(III), pp.251, 255, 261, 265-65, 274, 285, 298, 303-06

¹²⁸ *CJI*(III), pp.322, 334, 355, 365, 382-83, 385

¹²⁹ *CJI*(III), pp.407, 430, 433

¹³⁰ *CJI*(III), pp.487, 502, 508, 510-11

¹³¹ *CJI*(III), pp.588, 603-04, 634

¹³² Names are those listed first in MPs appointed to the committee.

¹³³ *CJI*(II), p.51

¹³⁴ *CJI*(II), p.463

1717	-
1719	-
1721–22	Henry Maxwell ¹³⁶
1723–24	Sir Ralph Gore ¹³⁷
1725–26	Theophilus Clements ¹³⁸
1727–28	-
1729–30	Sir Thomas Taylor ¹³⁹

6.4 Clerks and officers of the House of Commons (1613 to 1730)

Notes: dates in italics are dates of patents for life/lives, unless indicated otherwise—and where there are dates for patents issued in both Whitehall and Dublin, the latter—which are taken from the *Liber Munerum* (see bibliography); dates not in italics are derived from other sources, usually *CJI*, and indicate that the patentee was carrying out the functions of the post;

♣ indicates that the person was an MP at the time he held the office; and

♦ indicates that the person was an MP but not at the time of holding the office.

6.4.1 Clerks of the House of Commons

William Bradley	<i>24 Sep 1608</i> ¹⁴⁰ 1613–25 Nov 1614
Matthew Davis	25 Nov 1614–? ¹⁴¹
Edmond Midhopp (or Medhop) ¹⁴²	<i>24 Nov 1615</i> ¹⁴³ 14 Apl 1615–24 Oct 1615 ¹⁴⁴
Philip Ferneley ¹⁴⁵	<i>4 Aug 1628</i> ¹⁴⁶ 17 July 1634 ¹⁴⁷ –8 Aug 1666 ¹⁴⁸

¹³⁵ *CJI*(III), p.20

¹³⁶ *CJI*(III), pp.293, 295

¹³⁷ *CJI*(III), p.368

¹³⁸ *CJI*(III), p.437

¹³⁹ *CJI*(III), p.620

¹⁴⁰ *Liber Munerum Publicorum Hiberniæ*, 2 vols. (London, 1852), Part II, p.94

¹⁴¹ *CJI*(I), p.26 (25 Nov 1614): the House ordered that Davis 'shall attend and execute [Bradley's] place, until he shall be able to perform it himself'; Bradley was ill and it is not clear whether he returned to post before he was permanently replaced by Edmond Midhopp on 14 Apl 1615 because he 'was so sick that he was not able to attend the service of the ... House' (p.31).

¹⁴² Midhopp's background was Clerk of the Court of Common Pleas in Dublin; Midhopp's wife was a niece of Leticia Perrot, wife of Lord Deputy Chichester and may have owed his positions within the administration to him (Dennehy, 'Manuscript Alternatives', p.140); see also Dennehy, *Administrative History*, pp.116–17.

¹⁴³ *Liber Munerum*, Part II, p.94

¹⁴⁴ End of session

¹⁴⁵ Ferneley was Clerk of the Commons from 1628 to 1673. There is evidence of continuity: on 17 July 1661 Ferneley reminded House of petition he had made in 1641 and that he had not been able to collect the money due to him from the Ulster counties. MPs with knowledge confirmed the veracity of his petition and revived the order for payment (*CJI*(I), pp.428–29). Arthur Vicars, *Index to Prerogative Wills of Ireland* (Dublin 1897) indicates Ferneley died in 1673.

¹⁴⁶ *Liber Munerum*, Part II, p.94

¹⁴⁷ *CJI*(I), p.64 (18 July 1634)

Oliver Becher	24 Jan 1673 ¹⁴⁹
Thomas Tilson Sr. ¹⁵⁰ and son, Thomas ¹⁵¹	14 July 1680 ¹⁵² –16 July 1716 ¹⁵³
	10 Oct 1692 ¹⁵⁴ –26 Oct 1713 ¹⁵⁵
John Kerney ¹⁵⁶	7 May–18 July 1689
Francis Skiddy and	26 Oct 1713–5 Dec 1713 ¹⁵⁷
Thomas Trotter♦	26 Oct 1713–10 Nov 1715 ¹⁵⁸
Isaac Ambrose ¹⁵⁹ and	10 Nov 1715–23 Aug 1716 ¹⁶⁰ –Dec 1743

¹⁴⁸ *CJI*(I), p.386; 8 Aug 1666 dissolution; there are references to Ferneley up until end of the Parliament—for example, (I), pp.755, 759 and 764.

¹⁴⁹ *Liber Munerum*, Part II, p.94; Becher never carried out duties as no parliament met while he held patent.

¹⁵⁰ A Thomas Tilson was admitted to the Inner Temple on 5 Jan 1658, which would indicate that he was born around 1640 (*Inner Temple Admissions Database*: <http://www.innertemplearchives.org.uk/index.asp>). This would make Tilson Sr. in his 60s in 1703. According to a 1703 petition in *CJI*, for losses sustained by Henry Tilson in the 1640s, Thomas Tilson Sr. was the son of Henry Tilson, Protestant bishop of Elphin 1639–55. It shows the family kept detailed records of what they were owed and been paid and, as expected, a deftness in using the House's procedures for personal advantage—for example, the petition was considered by the House, notwithstanding an earlier resolution not to consider any further requests for money that session (*CJI*(II), p.412). The money had not been paid in Oct 1707 when Tilson Sr. petitioned again (p.540) and yet again in May 1709 (p.582) but on this occasion Tilson timed his petition to feed into the supply process. The thrust of the petition is confirmed by an instruction on 22 June 1662 from Charles II to the duke of Ormond that in consideration of great services and sufferings of late bishop of Elphin, Thomas Tilson, son of said bishop, was to have the sum of £1,000, out of moneys payable by the Adventurers in virtue of terms of the Declaration for Settlement (*Carte Calendar*, vol. XXXIII, Jan-Aug 1662, Bodleian Library, University of Oxford, Edward Edwards, 2005). See section 2.4 above. Tilson Sr. also held; (i) patent for the office of craner, wharfinger and packer of the port of Dublin from 1667 and (ii) with Edward Corker from 1669 the registrarship of the Court of Chancery (*CTB*, vol. 7 (1681–1685), pp.688–89, *CDSP* (1677–78), pp.548–617) (*CTB*, vol. 7 (1681–1685), p.688). In 1696/7 he tried unsuccessfully to convert a £60 annuity into forfeited land (*CTB*, vol. 7, 1681–1685, p.1075; *CTB*, vol. 12 (1697), p.116); *CTBP*, vol. 2 (1697–1702), p.7). Tilson Sr. was still craner when in 1695/6 he secured a reversionary interest for Tilson Jr.—the reversionary interest had previously been held by Chief Secretary Richard Aldworth (*SP*, 67–2 p.66(stamped 28); 20 Mar 1694/5). In addition, *Manuscripts of the House of Lords 1692–1693*, HMC, vol. I (London, 1900), p.71, indicates Tilson held the office of Usher of Court of Chancery in Ireland in the name of Oliver Grace, who refused to take the oaths and make declaration as prescribed by the 1691 Act. Tilson had taken the oaths and made declarations. In Feb 1692/3 a clause added to an English supply bill 'That the Office of Usher of the Court of Chancery in Ireland, taken by *Tho. Tilson*, senior, in the Name of *Oliver Grace* of Dublin, gentleman, in trust for the said *Tilson*, shall not be forfeited by any act of the said *Oliver Grace*, by not taking the oaths, and subscribing the declaration, or otherwise; but that the said *Tho. Tilson*, subscribing and taking the oaths, may enjoy the said office' (*CJE*(X), p.659). Tilson Sr. was a parishioner of St. Paul's, Dublin; his successor, Bruen Worthington, had been involved in the formation of the parish in 1698 and had its subsequent administration (see Twomey, *Smithfield*, p.43); *Index to Prerogative Wills* indicates Tilson Sr. died in 1722.

¹⁵¹ Thomas Tilson Jr. was baptised on 14 Jan 1672 at St. John's, Dublin (*Irish Genealogy Database*, accessed 1 Apr 2015); *Index to Prerogative Wills* indicates he died in 1744. Thomas Tilson son of Thomas Tilson admitted to the Inner Temple on 7 June 1689—*Inner Temple Admissions Database*.

¹⁵² *SP*, 63–361(stamped 242 to 245) (*CSPD: William III 1701*—Dec 1701)

¹⁵³ *Liber Munerum*, Part II, p.94

¹⁵⁴ *CJI*(II), p.12 (10 Oct 1692), the House approved appointments and appointed a committee to search for precedents on how clerks should be sworn; the committee reported that they had been sworn (pp.17–18; 14 Oct 1692). However, *CJI* records that on 5 Oct the question that Sir Richard Levinge was a fit person to take the Chair was 'put by the Clerk'—presumably by one of the Tilsons.

¹⁵⁵ The 1711 session was prorogued 9 Nov; 26 Oct 1713 Tilsons sold their patent to Thomas Trotter and Francis Skiddy (*SP*, 63–374 (stamped 291) (Attorney General Gore to Lords Justices, 21 June 1716)).

¹⁵⁶ *Davis*, Patriot Parliament, p.170; no record of a patent has been located.

¹⁵⁷ 5 Dec 1713 Skiddy sold his interest to Trotter (*SP*, 63–374(stamped 291)).

¹⁵⁸ *CJI*(III), pp.45–46; although described as 'a clerk' in *CJI*, the sum paid (£200) indicates that he served as Clerk of the House; he subsequently became an MP and Hayton classes him as a lieutenant of Speaker Conolly (*Coghill Letters*, p.xv). 10 Nov 1715 Trotter sold his interest to Ambrose and Bruen Worthington (*SP*, 63–374(stamped 291)). See section 2.4 above.

¹⁵⁹ Two burial records have been found for men named Isaac Ambrose: 18 Dec 1743 for St. Mary's, Dublin and 5 Jan 1750, St. John's, Dublin (*Irish Genealogy Database*: <https://www.irishgenealogy.ie/en/>, accessed 1 Apr 2015); the former would fit with parliamentary records.

¹⁶⁰ A new patent was issued replacing that to Tilsons with one to Ambrose and the Worthingtons (Hughes, *Patentee Officers*(II),p.94)

Bruen Worthington¹⁶¹ and
Burdett Worthington¹⁶³

10 Nov 1715¹⁶²–23 Aug 1716–Dec 1736
23 Aug 1716¹⁶⁴–Dec 1743

6.4.2 Clerk assistants

[Edmond Midhopp (or Medhop)

1613–14 Apl 1615¹⁶⁵

William Sandys

17 July 1634¹⁶⁶–10 Nov 1634

Walter Heighter

10 Nov 1634¹⁶⁷–18 Apl 1635¹⁶⁸

—

Richard Warburton♦

11 May 1661¹⁶⁹–8 Aug 1666¹⁷⁰

Faustin Cuppaidge

10 Oct 1692¹⁷¹–10 Feb 1704/5¹⁷²

Bruen Worthington

[Feb 1704/5?]¹⁷³–9 Nov 1711¹⁷⁴

John Ker

25 Nov 1713¹⁷⁵–1748

6.4.3 Committee clerks

Richard Stephens

July 1661¹⁷⁶

¹⁶¹ Between 1708 and 1729 Worthington is recorded as a public notary living in Dublin (*Registry of Deeds Index*); these entries show Worthington was in Dublin when the 1713 Parliament was sitting. He was deputy registrar of deeds until 1715 (*Register of Deeds*). He owned land in Simonstown, co. Meath ('A survey of the lands of Symonstown (Simonstown) in the parish of Donoghmore Surveyed for Bruen Worthington' by T. Moland. Octavo sheet, 1717; listed by the National Library of Ireland). In 1722 he bought land in Cheshire (Daniel and Samuel Lysons, *Magna Britannia*, vol. II (London 1810), p.796). See section 2.4 above.

¹⁶² Inferred from the supply resolution in the next session (*CJI*(III), pp.45-46); although described as 'a clerk' in *CJI*, sum paid (£500) indicates that he served as Clerk of the House.

¹⁶³ Burdett was the son of Bruen and, although a record for this baptism has not been identified, six of Bruen Worthington's children were baptised in the parish of St. Paul's, Dublin before 1716 (*Irish Genealogy Database*, accessed 1 Apl 2015); on this basis he was probably a minor when his father obtained the new patent in 1716. Moreover, records of Trinity College Dublin list a Burdett Worthington as entering the College in 1728 aged 16—*Alumni Dublinenses*. Burdett was admitted to the Inner Temple on 4 Aug 1727 (*Inner Temple Admissions Database*).

¹⁶⁴ Burdett was remunerated by the House of Commons only after his father's death.

¹⁶⁵ Dennehy, suggests that Midhopp may have been clerk assistant because surviving the Journal is in hand of Midhopp, including brief entries of the first session when Bradley was the Clerk; he considers it likely Midhopp recommenced the Journal from the beginning, copying into his notebook all of entries previous to his elevation in position; see Dennehy, 'Manuscript Alternatives', p.141.

¹⁶⁶ *CJI*(I), p.64, 17 July 1634, Sandys described as 'his [Ferneley's] assistant'.

¹⁶⁷ *CJI*(I), p.78 (8 Nov 1634) Sandys petitioned to be allowed leave of absence for the session as he had duties in the King's Remembrancer's office; 10 Nov the House agreed Sandys' request and appointed Walter Heighter in his place and he was sworn in that day. The Westminster Commons did not have a formally appointed clerk assistant until 1640, though the Clerk of the House appears to have had assistance before this date (Williams, *Clerical Organization*, pp.14-15).

¹⁶⁸ Last sitting day of session

¹⁶⁹ *CJI*(I), p.387 (11 May 1661); see also (II), p.113 (28 Oct 1695).

¹⁷⁰ *CJI*(I), p.386; 8 Aug 1666 is the date of dissolution; there are references to Warburton up until end of the Parliament—for example, (I), p.756 (28 July 1666); see also (II), pp.109, 113 (28 Oct 1695). He was alive in 1695 when he petitioned for £600, voted to him on 28 Mar 1666 over and above £150 per annum, which had not been paid, and the Commons agreed to address the lord lieutenant for payment (pp.109, 113-14, *CTB*, vol. 16 (1700–01), p.263). See section 2.5 above.

¹⁷¹ *CJI*(II), p.12 (10 Oct 1692); House approved appointments and appointed a committee to search for precedents on how the Clerks were sworn; the committee reported that they had been sworn (pp.17-18; 14 Oct 1692). See section 2.4 above.

¹⁷² *CJI*(II), p.425, Cuppaidge sought leave to withdraw from attendance on the House.

¹⁷³ *CJI*(II), p.516 (1 Aug 1707); sums voted to Worthington for services in previous session i.e. 1705 session.

¹⁷⁴ Date 1711 session prorogued; a new clerk was in post at next session.

¹⁷⁵ *CJI*(III), pp.45-46

Laurence Steele	Jan 1662/3–31 Mar 1666? ¹⁷⁷
Daniel Golborne ¹⁷⁸	1703? ¹⁷⁹ –1716 ¹⁸⁰
Enoch Sterne	1710 session ¹⁸¹
John Knightly	9 July 1711–9 Nov 1711 ¹⁸²
Isaac Ambrose	1713 ¹⁸³ –Dec 1743 ¹⁸⁴
William Bayly	1713 ¹⁸⁵ –1731/2
Matthew Magee	1713 session ¹⁸⁶ and 1717 session ¹⁸⁷
Henry Buckley	1715–1735/6

6.4.4 Serjeant-at-arms

—¹⁸⁸

Philip Carpenter Sr. and son, Joshua	2 July 1660 ¹⁸⁹ –13 Apl 1682 ¹⁹⁰ [8 May 1661?] ¹⁹¹ –8 Aug 1666 ¹⁹²
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- ¹⁷⁶ The Clerk attended the agents sent to Charles II in London on 4 July 1661 (*CJI*(I), p.419); he was therefore not carrying out the functions of a committee clerk attending a committee sitting in Chichester House.
- ¹⁷⁷ *CJI*(I), p.731 (31 Mar 1666); he sought payment 'for his service in attending upon committees' since Jan 1662/3; he may have continued to work beyond 31 Mar 1666; see also (II), p.199 (16 Sep 1697).
- ¹⁷⁸ The *Alumni Dublinenses* list a Daniel Golborne as admitted to Trinity College in 1668 and the *Inner Temple Admissions Database* has an entry for a 'gentleman' of the this name admitted in 1672. Golborne appears in the *Registry of Deeds Index* as a witness to transactions between 1708 and 1721; in a 1708 transaction his residence was given as London.
- ¹⁷⁹ *CJI*(II), p.517 (1 Aug 1707) referred to services including 'two last and this present session'; no payment was made for the 1713 session but payment was made for the 1715 session ((III), pp.45-46); *Index to Prerogative Wills* indicates died in 1720.
- ¹⁸⁰ *CJI*(III), p.139
- ¹⁸¹ *CJI*(II), p.654, June 1710; he was married to the daughter of Col Henry Baker, Governor of Derry ((III), p.49). Sterne became Clerk of the Parliaments in Dublin (*LJGB*(XX), p.593, *LJI*(II), p.630). He may have been related to Dr John Sterne, founder of the College of Physicians in 1667 and whom the House of Lords had appointed supervisor of press in 1661 (Dennehy, *Administrative History*, p.226). Sterne was Clerk of the Parliaments from 18 Oct 1715 and with his son, Henry Baker Sterne, from 24 May 1728 to 1761; patents (during pleasure) (*Liber Munerum*, Part II, p.94).
- ¹⁸² *CJI*(II), p.709 (1 Aug 1711)
- ¹⁸³ *CJI*(III), pp.45-46; there is a baptismal record for a daughter 20 Jan 1704, St. Paul's, Dublin.
- ¹⁸⁴ In Aug 1716 Ambrose bought a share of the patent for the clerkship of the House of Commons (see earlier entries and pp.36ff).
- ¹⁸⁵ *CJI*(III), pp.46, 205, 267, 334, 409, 496, 594-95
- ¹⁸⁶ *CJI*(III), p.46. Baptismal records for St. Mary's, Dublin list a Matthew Magee as father of twins baptised 14 Oct 1711.
- ¹⁸⁷ *CJI*(III), pp.139, 205, 267, 334, 409, 496, 594-95
- ¹⁸⁸ Names not given in *CJI* for earlier parliaments, but it is clear that there were Serjeants-at-Arms—see, for example, (I), pp.15, 46. *Liber Munerum* (Part II) lists the following:
- | | |
|---|-------------|
| Morgan Matthew (for life) | 31 Mar 1612 |
| Henry Suthey and Francis Cave (for lives) | 28 Feb 1616 |
| William Piesly and Bartholomew Piesly (for lives) | 9 Feb 1625 |
| Robert Saville and Thomas Bennett (for lives) | 6 June 1629 |
- Liber Munerum* (Part II, p.86) records a patent for a second serjeant-at-arms was issued in 1612 one of whose primary tasks was to 'attend the Speaker of the Commons'; see deputy serjeant-at-arms in following Appendix. Division of responsibilities became unclear when the Carpenters held both Serjeants-at-Arms patents, and *CJI* entries from 1692 treat serjeant-at-arms as integral to parliamentary business.
- ¹⁸⁹ *Liber Munerum*, Part II, p.86
- ¹⁹⁰ Philip Sr. was dead by this date and the patent surrendered and replaced (for lives) (*Liber Munerum*, Part II, p.86)
- ¹⁹¹ *CJI*(I), p.421, Carpenter is first mentioned by name in *CJI* as carrying out serjeant-at-arms functions on 9 July 1661.

Joshua Carpenter and son, Philip Jr.	14 Apr 1682 ¹⁹³ –2 July 1683 ¹⁹⁴
Nathaniel Poole and Simon Towers	3 July 1683 ¹⁹⁵ –by 27 Sep 1690 ¹⁹⁶
Cadwallader Wynne	27 Sep 1690 ¹⁹⁷ –24 Apr 1697 ¹⁹⁸
	10 Oct 1692–to Apr 1697 ¹⁹⁹
Richard Povey ²⁰⁰	29 Apr 1697 ²⁰¹ –before 8 May 1742 ²⁰²
	11 May 1697 ²⁰³ –to 1742

6.4.5 Deputy serjeant-at-arms²⁰⁴

Edward Davis	26 Sep 1612 ²⁰⁵
William Piesly and Bartholomew Piesly	23 Aug 1628 ²⁰⁶
Peter Hill and William Hill	19 Dec 1635 ²⁰⁷
George Piggott	9 Nov 1638 ²⁰⁸
—Peter Hill	1639–June 1647 ²⁰⁹
—Thomas Dee	–17 July 1641 ²¹⁰ –
—George Plunkett	–19 Nov 1642 ²¹¹ –
Philip Carpenter Sr.	28 Feb 1660 ²¹² –13 Sep 1669 ²¹³
—William Tisdell	–15 Dec 1662 ²¹⁴ –

¹⁹² *CJI*(I), p.386; 8 Aug 1666 date on which Parliament dissolved; there are references to Carpenter up until end of the parliament—for example, (I), pp.756-57, 765 and 772.

¹⁹³ Date of patent (for lives), *Liber Munerum*, Part II, p.86

¹⁹⁴ Date patent surrendered, *Liber Munerum*, Part II, p.86

¹⁹⁵ Date of patent (for lives), *Liber Munerum*, Part II, p.86

¹⁹⁶ Both dead by this date, *Liber Munerum*, Part II, p.86

¹⁹⁷ Date of patent (during pleasure), *Liber Munerum*, Part II, p.86

¹⁹⁸ Date patent surrendered, *Liber Munerum*, Part II, p.86

¹⁹⁹ *CJI*(II), p.134 (6 Dec 1695); see also pp.45 and 51 (30 Aug and 5 Sep 1695) where Wynn is referred to as serjeant-at-arms; Joshua Carpenter petitioned that he had a patent for life to the place or office of serjeant-at-arms; the House did not admit claim but ordered Wynn to waive privilege, to allow action in courts (see pp. 46ff above).

²⁰⁰ A Richard Povey appears in transactions recorded in the *Registry of Deeds Index*, and he may have been related to Sir John Povey, Lord Chief Justice from 1673 to 1679.

²⁰¹ Date of the first patent (during pleasure), further patents were issued on the same basis 12 Sep 1702, 10 Jan 1714/5 and 28 Aug 1727 (*Liber Munerum*, Part II, p.86).

²⁰² Date patent was issued to Edward Brereton, Povey having died, *Liber Munerum*, Part II, p.86

²⁰³ *CJI*(II), p.152, date Povey was sworn in to replace Wynn

²⁰⁴ *Liber Munerum*, Part II, p.86 records a patent for the second serjeant-at-arms (or 'first other serjeant') issued in 1612 and one of his primary tasks was to 'attend the Speaker of the Commons'. Division of responsibilities became unclear when the Carpenters held both Serjeancies-at-Arms and *CJI* entries from 1692 treat the first serjeant-at-arms as integral to parliamentary business. A further complication was that position could be exercised through a deputy, which may account for the names recorded in the 1640s and 1660s who not appear to have acquired the patent.

²⁰⁵ Date of patent (for life), *Liber Munerum*, Part II, p.86

²⁰⁶ Date of patent (for lives), *Liber Munerum*, Part II, p.87

²⁰⁷ As above

²⁰⁸ Date of patent, *Liber Munerum*, Part II, p.87

²⁰⁹ *CJI*(I), p.231 (10 June 1641) given leave by the Commons to go to England; active in post ((I), p.338; 3 Mar 1644/5); still in post on 17 May 1647 ((I), p.367).

²¹⁰ *CJI*(I), p.260 (17 July 1641); date he started and finished service is not available in *CJI*.

²¹¹ *CJI*(I), p. 310 (19 Nov 1642); date he started and finished service is not available in *CJI*.

²¹² Date of patent (for life), *Liber Munerum*, Part II, p.87

²¹³ Date patent surrendered, *Liber Munerum*, Part II, p.87

—Henry Rawlin	—3 Mar 1662/3 ²¹⁵ —
George Piggott and George Harwood	24 Dec 1666 ²¹⁶
Philip Carpenter Sr. and son, Joshua	13 Sep 1669 ²¹⁷
Thomas Houghton	21 Dec 1689 ²¹⁸
Thomas Carter I♣ and Morley Saunders♣	29 Oct 1692 ²¹⁹ —13 May 1723 ²²⁰
—Francis Cocksedge	11 May 1697 ²²¹
Thomas Carter II♣ and son, Thomas III♣	13 July 1723 ²²² —6 Sep 1754 ²²³
—George Cuppaidge and John Stothard	c. Apl 1725 ²²⁴ —1756

6.4.6 Keepers of the Parliament House

William Robinson♣	2 June 1677 ²²⁵
John Pacey/Pacy♣ ²²⁶	21 Jan 1711
James Palmer	16 Apl 1728 ²²⁷
William Maple	19 Mar 1735 ²²⁸

²¹⁴ *CJI*(I), p. 607 (15 Dec 1662)

²¹⁵ *CJI*(I), p. 638 (3 Mar 1662/3)

²¹⁶ Date of patent, replacing 1638 patent to Piggott, *Liber Munerum*, Part II, p.87

²¹⁷ Date of patent (for lives), *Liber Munerum*, Part II, p.87; the editor of the *Liber Munerum* suggests that as the Carpenters also held the patent for Chief Serjeant-at-Arms the office 'became incorporated in that'.

²¹⁸ Date of patent (during pleasure), *Liber Munerum*, Part II, p.87

²¹⁹ Date of patent (for lives), *Liber Munerum*, Part II, p.87; by this date Piggott was dead and Harwood had surrendered the patent. Thomas Carter I (*circa* 1650–1726) MP for Fethard from 1695 to 1713; first wife was Margaret Houghon (*HIP* biography). Morley Saunders (1671–1737) MP for Enniscorthy from 1703 to 1714 (*HIP* biography).

²²⁰ Date patent surrendered, *Liber Munerum*, Part II, p.87

²²¹ *CJI*(II), p. 152, Cocksedge sworn in as deputy to Povey; in post in Oct 1703 (p.343) but not mentioned again in *CJI*. Described in 1721 as Pay Master of the Ordnance in Ireland (*The Works of the Right Honorable Joseph Addison Esq*(IV), London 1721, list of subscribers). *Index to Prerogative Wills* indicates he died in 1734.

²²² Date of patent (for lives), *Liber Munerum*, Part II, p.87; the patent was sold in 1723 by Carter I, which had been held by Carter and his son (II), *SP*, 63–385(stamped 121); Lord Lieutenant Carteret expressed reservations about the sale of offices and the Carters buying offices (*SP*, 63–385(stamped 292) and see pp.42ff above). Thomas Carter II (*circa* 1682–1763), son of Thomas Carter I and MP for Trim 1719 to 1726 and for Hillsborough 1727 to 1760; Thomas Carter III (1720–1765), son of Thomas Carter II and MP for Old Leighlin 1745 to 1760 (*HIP* biographies).

²²³ According to *HIP* biographies, Thomas Carter II and III held the patent to 1752; *Liber Munerum*, Part II, p.87 gives 1754 when George Cuppaidge and his son-in-law, Humphrey Minchin, received a replacement patent.

²²⁴ The Carters sold their patent to Cuppaidge and Stothard, who sought a new patent but there is no evidence that one was issued; *SP*, 63–385(stamped 121, 283, 294). 1754 Cuppaidge and Humphrey Minchin received a replacement patent, and in 1756 Minchin and another son-in-law, John Dawson, receive a new patent (*Liber Munerum*, Part II, p.87).

²²⁵ Date of patent (for life), *Liber Munerum*, Part II, p.95; Robinson (1644–1712), originally estate manager for the duke of Ormond, MP for Knocktopher 1692, Wicklow Borough from 1695 to 1699 and TCD from 1703 to 1712 and, among other Irish and English offices, surveyor general from 1684 (*DIB*).

²²⁶ Date of patent (during pleasure), *Liber Munerum*, Part II, p.95 Pacy (before 1671–1727), originally estate manager for the duke of Ormond, MP for Callan 1703 to 1713 (*DIB*). Hayton states that Ormond needed to demonstrate access to higher levels patronage to reinforce the loyalty of his employees and was obliged to capitalise on his position as lord lieutenant to give employees such as Pacy advancement to keeper (D.W. Hayton, 'Dependence, clientage and affinity: the political following of the second Duke of Ormonde' in T.C. Barnard and Jane Fenlon (eds.), *The dukes of Ormonde 1610–1745* (Woodbridge, 2000), pp.230–31.

²²⁷ Date of patent (during pleasure), *Liber Munerum*, Part II, p.95

²²⁸ As above

6.4.7 Door-keepers

Highgate Lone	[8 May 1661?] ²²⁹ –8 Aug 1666?
–?–	
George Spike	[1692?] ²³⁰ –Nov 1713 ²³¹
Robert Weir	?–1713 ²³²
Richard West	?–1713 ²³³
John Fieldhouse	1713 ²³⁴ –1733/4 ²³⁵
William Kempsey	1715 ²³⁶ –1717 ²³⁷
John Molloy	1719 ²³⁸ –1723/4 ²³⁹
Bartholomew MacDannell	1725 ²⁴⁰ –1725/6 ²⁴¹
Richard Malone	1727 ²⁴² –1727/8 ²⁴³
James Savage	1729 ²⁴⁴ –[1760s]

6.4.8 Keepers of the Speaker's chamber

William Craig	–31 July 1661 ²⁴⁵ –
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6.4.9 Chaplains

Mr Vesey ²⁴⁶	11 May 1661–8 Aug 1666 ²⁴⁷
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²²⁹ In view of spread of references probably doorkeeper for whole of parliament—*CJI(I)*, pp.444 (31 July 1661), 459, 733 (6 Apr 1666), 755 (26 July 1666).

²³⁰ Helsham, *Long History*, p.20, stated he succeeded his father in post.

²³¹ Helsham, *Long History*, pp.20, 48, stated he held the post from the Revolution and he had succeeded his father in post; he was dismissed in Nov 1713 (see p.44 above). *CJI(II)*, p.444 (7 Mar 1704/5) petitioned for remuneration. There is a marriage record for a George Spike to Leah Chabart, 20 Apr 1716, St. Andrew's, Dublin (*Irish Genealogy Database*, accessed 1 Apr 2015).

²³² *CJI(III)*, p.46 (14 Dec 1715) his widow petitioned for remuneration.

²³³ *CJI(III)*, p.46(14 Dec 1715) petitioned for remuneration.

²³⁴ *CJI(III)*, pp.138-39

²³⁵ Not listed in supply resolutions in the following session

²³⁶ *CJI(III)*, p.45

²³⁷ Not listed in supply resolutions in the following session

²³⁸ *CJI(III)*, p.205

²³⁹ Not listed in supply resolutions in the following session

²⁴⁰ *CJI(III)*, p.409

²⁴¹ Not listed in supply resolutions in the following session

²⁴² *CJI(III)*, p.496

²⁴³ Not listed in supply resolutions in the following session

²⁴⁴ *CJI(III)*, p.594

²⁴⁵ *CJI(III)*, p.445

²⁴⁶ Either (i) John Vesey (1638–1716), born in Coleraine, 1661 rector of Igthermurragh and Shandrum (Cloyne), 1662 archdeacon of Armagh, 1667 dean of Cork, 1672/3 bishop of Limerick, Ardfert and Aghadoe and 1678/9 Archbishop of Tuam; or (ii) John's father, Thomas Vesey (died *circa* 1669), born in Coleraine, 1629 rector of Maghera and of Ballyscullion (Derry), 1634 rector of Camus-juxta-Bann or Macosquin, one of an advisory committee of eight ministers summoned to Dublin in Feb 1660 to assist the Convention, 1661 rector of Coleraine in 1661, 1662 rector of Killowen (Derry), 1665 vicar of Dundalk, 1662 resigned as archdeacon of Armagh to be succeeded by his son but, on his son's resignation in 1663, was reappointed 1665–9 (*DIB*). Both Bergin in the *DIB* and Dennehy, *Administrative History*, p.225, favour the former, which would sit with the pattern of later upwardly-mobile chaplains.

Dr Edward Walkington ²⁴⁸	10 Oct 1692 ²⁴⁹ –26 June 1693 (<i>dissolution</i>)
Dr John Travers ²⁵⁰	30 Aug 1695 ²⁵¹ –14 June 1699 (<i>dissolution</i>)
Dr Benjamin Pratt ²⁵²	27 Sep 1703 ²⁵³ –6 May 1713 (<i>dissolution</i>)
Hon John Moore ²⁵⁴	27 Nov 1713 ²⁵⁵ –1 Aug 1714 (<i>dissolution</i>)
Charles Carr ²⁵⁶	14 Nov 1715 ²⁵⁷ –5 June 1716 ²⁵⁸ (<i>promoted to episcopal bench</i>)
Dr William Gore ²⁵⁹	5 June 1716 ²⁶⁰ –11 June 1727 (<i>dissolution</i>); 29 Nov 1727 ²⁶¹ –6 Jan 1731 ²⁶² (<i>his death</i>)

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- ²⁴⁷ CJI(I), p. 387, 'Mr Vesey' appointed chaplain; subsequently given leave of absence for a fortnight on 18 June 1662 (p.524) and a further period of leave on 20 Dec 1665 (p.689); and he was still in post on 3 Aug 1666 (p.772).
- ²⁴⁸ Walkington (*circa* 1652-1699) born in Limerick 1682, rector of Ardtrea and Arboe (co. Armagh) from 1682 and a chaplain to regiments, 1693 archdeacon of Ossory, 1695 bishop of Down. According to the *DIB* (John Gibney), in 1692 Capel pushed him to be bishop of Down, as a moderate with experience of Ulster but, to judge from his sermons, he was a high churchman. Archbishop Marsh had reservations about his fitness for the see because he was reported to be lazy and kept dubious company in coffee houses.
- ²⁴⁹ CJI(II), p.12, Dr Walkington 'admitted and allowed' to read prayers
- ²⁵⁰ Travers appears an exception to the pattern of aggressively upwardly mobile clerics found from 1692 to 1715. He was vicar (from 1693) of St. Andrew's (see C. Litten Falkiner (ed.), *Illustrations of Irish History and Topography* (London, 1904), pp.174, 185), which became the parliamentary church, and chancellor of Christchurch, Dublin from 1699 (*Coghill Letters*, no.26 (To Edward Southwell, 21 Sep 1727). *Index to Prerogative Wills* indicates he died in 1727.
- ²⁵¹ CJI(II), p.45
- ²⁵² According to the *DIB*, Pratt had independent means and polished manners; he had travelled in Britain and Europe and knew Swift in London. In 1703 he was appointed chaplain to Ormond and in 1710, despite opposition from Wharton, he was made Provost of Trinity College. In 1710–12 he took leave of absence and he was criticised for allowing Jacobite students to make public expression of their views. Archbishop King was a strong opponent and eventually forced him out in 1717 when the chancellorship was secured for the prince of Wales. He had to settle for the deanery of Down, though he tried to hold out for a bishopric.
- ²⁵³ CJI(II), p.320, elected.
- ²⁵⁴ Son of earl of Drogheda, 1707 prebendary of St. Patrick's, Dublin died 1716 (Cotton, *Fasti*(II), p.154); married in 1708 Elizabeth Devonish (widow of Edward Devonish), youngest daughter of Lord Chancellor Porter (*Peerage Database*, <http://www.thepeerage.com>, which cites Cokayne, etc, *The Complete Peerage of England, Scotland, Ireland, Great ...*; reprint (Gloucester, 2000)).
- ²⁵⁵ CJI(II), p.747, elected (two candidates)
- ²⁵⁶ Vicar of Kilkea 1701 and chaplain of the Blue Coat Hospital, Dublin; bishop of Killaloe 9 June 1716; died 1741 (Cotton, *Fasti*(I), p.469)
- ²⁵⁷ CJI(III), p.11
- ²⁵⁸ CJI(III), p.100
- ²⁵⁹ *The Complete Peerage*(III), p.273; Cotton, *Fasti*(III), p.228)
- ²⁶⁰ CJI(III), p.100
- ²⁶¹ CJI(III), p.465
- ²⁶² Cotton, *Fasti*(III), p.228

6.5 House of Commons officers' fees (3 Mar 1640/1)

6.5.1 Fees due to the clerk:

'For the copying, engrossing, passing and enrolling of any private or particular bill, which shall pass for a law for the advantage, good, or benefit of any private person, city or corporation, which such private person being thereby naturalized, or otherwise therein concerned, and every such city or corporation shall pay to the clerk of this House five pounds, sterling.

'For the entry and copy of every order, both in the House, or before any grand committee, where in any private person is concerned, together with the names of the said committee, five shillings, sterling.

'For the reading and entering of every petition, answer, replication, or other pleadings, concerning the private good of any particular person, city, town, or corporation, five shillings, sterling.

'For the copying of any petition, articles, or other pleadings, concerning the private good of any private person, by the sheet, twelve pence, sterling.

'For the entry of every privilege of parliament granted by the knights, citizens and burgesses, five shilling, sterling.

'For the appearance of every delinquent, two shillings and six pence, sterling.

'For every bond to his majesty's use, to abide the censure of the House, etc, five shillings, sterling.

'For cancelling the same, five shillings, sterling.

'For every warrant from the House or grand committee for the bringing in of any delinquent, five shillings, sterling.

'For every discharge, the like, five shillings, sterling.

'For every summons, two shilling and six pence'.²⁶³

6.5.2 Fees due to the serjeant-at-arms:

'For every bill that pass for a law that concerns any man's private interest, or for several men's interest, the Serjeant is to have twenty shillings, sterling, and to his men, in like cases, two shillings and six pence, sterling.

'That if any desire to have their counsel, in opposition to any bill that is to pass for a law, they are to pay the Serjeant, for admittance for such party and his counsel, ten shillings, sterling,

'That if any be naturalised, as born out of the King's dominions, he must put in a bill, and pay to the serjeant twenty shillings, sterling, and to his men five shillings, sterling'.²⁶⁴

²⁶³ *CJI(I)*, pp.189-90

²⁶⁴ There is no evidence that naturalisation generated a significant source of legislation or income.

'That upon a bill which is to pass for a law, and where it concerns more than one corporation, or such like, the Serjeant is to have twenty shillings, sterling, and to his men two shillings and six pence, sterling.

'For the arrest of a knight-bachelor, or baronet, the Serjeant is to have twenty shillings, sterling.

'For every day that he is in keeping within the doors, besides his diet and lodging, six shillings and eight pence, sterling.

'And when he goes abroad with a keeper, per diem, ten shillings, sterling.

'For the arrest of an esquire, the Serjeant is to have thirteen shillings, sterling.

'For every day that he is in keeping within the doors, besides his diet and lodging, five shillings, sterling.

'When he shall go abroad with a keeper, per diem, six shillings and eight pence, sterling.

'For the arrest of a gentleman, or any other under the degree of an esquire, ten shillings, sterling.

'For his keeping within the doors, besides his diet and lodging, three shillings and four pence, sterling.

'When he shall go abroad with a keeper, per diem, five shillings, sterling.

'For every mile that the Serjeant shall ride, from the place where the parliament is kept, unto the place where the party shall be arrested, for every mile's going twelve pence, and for every mile's coming twelve pence';

'For every summons, the serjeant-at-arms is to have for every mile for his travelling charges, going and coming, six pence, sterling ...

'No summons in any suit between party and party ought to be directed to the serjeant-at-arms, but only such summons as is granted at the suit of a Members of this House, or where a summons is granted in some general grievance ...

'If any knight or baronet be brought to the bar as a delinquent, the Serjeant is to have twenty shillings, sterling.

'If any esquire be brought to the bar as a delinquent, the Serjeant is to have thirteen shillings and four pence, sterling.

'If under that degree, ten shillings, sterling.

'And if they be committed, he is to have, per diem, as aforesaid, Reddenda singula singulis.

'And if anyone be brought in as a witness, the Serjeant is to have of the party that produces him two shillings, sterling'.²⁶⁵

²⁶⁵ *CJI(I)*, pp.189-90

6.6 Comparison of selected fees of officers

Irish House of Commons (1695) ²⁶⁶		English House of Commons (1700/1) ²⁶⁷	
Fees for private bills			
		Mr Speaker	£5-0-0
		Speaker's secretary	£0-10-0
Clerk from principal sponsor	£4-10-0	Clerk for	
Clerk from each additional person receiving benefit	£1-0-0	readings	£3-13-0
		for orders and other proceedings	£1-5-0
		Serjeant-at-arms	£1-5-0
Clerk assistant from principal sponsor	£0-15-0	Clerk assistant	£1-0-0
Clerk assistant from each additional person receiving benefit	£0-7-6		
Clerks without doors from principal sponsor	£0-10-0	Chief clerk without doors (and others)	£0-10-0
Clerks without doors from each additional person receiving benefit	£0-5-0		
		Door-keepers	£0-5-0
		Housekeeper	£0-5-0
		Bills concerning counties or corporations	Double above
To clerks of select committees for attending a private committee, if the committee adjourned	£0-5-0	To four clerks without doors for attending a private committee, if the committee adjourned	£0-6-8
for summons to witness and other functions	£0-2-6	for summons to witness and other functions	£0-3-4
for the report of a [private] committee	£0-1-0	for drawing and transcribing report	£0-2-6
	£0-5-0		£0-6-8
Other fees to clerks			
Every Member	£0-6-8	For swearing every new Member	£1-5-0
Member not appearing within 14 days of calling parliament	£0-13-4		
		For the Test, by Act of parliament, at the Table	£0-1-0
All orders of the House	£0-6-8	For every order	£0-6-8
Entering order in Book of Orders	£0-1-0		
Entering reports in the Journal	£0-6-8		
For every hearing at bar, each delinquent to pay	£1-6-8	For every hearing at the bar, on each side	£1-13-4
Counsel to pay	£0-6-8		
Each witness examined to pay	£0-2-6		
For searching the records by private persons	£0-2-6	For searches of the Journal (by clerks?)	£0-6-8
For copies of bills, per sheet (15 lines per sheet and six words in a line)	£0-1-0	For copies of bills, per sheet	£0-1-0
		But if to Members, only, per sheet	£0-0-4
For every petition read in the House	£0-5-0	To the clerk assistant for reading a petition	£0-2-0
Fees paid to the serjeant-at-arms (and his men)			
		For taking a knight into custody	£5-0-0
		For taking a gentleman into custody	£3-6-8
		For swearing a knight of the shire into the House	£0-10-0
		For swearing a burgess into the House	£0-5-0

²⁶⁶ *CJI(II)*, pp.95, 104, xx

²⁶⁷ *CJE(VI)*, pp.287-88

Irish House of Commons (1695) ²⁶⁶		English House of Commons (1700/1) ²⁶⁷	
For every counsel attending committee And to his men	£0-10-0 £0-5-0	For every counsel pleading at the bar or elsewhere	£0-10-0
For bringing any criminal to the bar—per day	£0-13-0	For bringing any criminal to the bar For riding charges, for every mile	£0-6-8 £0-0-6
Admitting strangers into the House	£0-10-0		
Serving a summons in Dublin at the private suit of Member or other party	£0-3-4		
Fees to door-keepers of the House (unless indicated otherwise)			
For a hearing at the bar of the whole House at the conclusion	£0-6-8	For an attendance at the bar	£0-7-6
For a hearing a committee of the House	£0-3-4		
For delivery of papers, case or proposal at the door	£0-5-0	For delivery of papers at the door	£0-5-0
Upon discharge of every prisoner at the bar	£0-2-6	Upon discharge of every prisoner to each door-keeper	£0-2-6
For every Member introduced and sworn after the sitting of parliament	£0-2-6	Upon swearing a Member on a new return	£0-5-0
For every counsel pleading at the bar	£0-2-6		
For every witness examined	£0-0-6		

6.7 Costs incurred in enacting a bill at Westminster

Item ²⁶⁸	Cost
Drawing up bill	£10:15:00
Expenses necessary in following and transacting a bill	£50:00:00
If it fails, 20 guineas for pains	£21:00:00
If it succeeds,	£86:00:00
For carrying a bill that is the, first of its kind [where] a solicitor [is] absolutely necessary and he must have if it does not succeed.	£10:15:00
And if it succeeds he must have an additional	£10:15:00
Total (does not add to the total)	£239:15:00
If it miscarries in the first house it is brought into, a good part of the fees and expenses as well as additional rewards will be saved.	

²⁶⁸ BL, Add 28,888 f.9 (with papers dated 1701/2)

6.8 Success rates of legislation

6.8.1 Success rates by originating body

Session	House of Commons				House of Lords				Irish Privy Council				Commons initiated as % of total initiated with number started in Commons		Commons initiated as % of total enacted with number starting in Commons	
	Enacted	Failed	Total	% enacted	Enacted	Failed	Total	% enacted	Enacted	Failed	Total	% enacted				
1692	0	5	5	0%	0	3	3	0%	4	13	17	24%	20%	25	0%	4
1695–97	35	95	130	27%	1	27	28	4%	33	23	56	59%	61%	214	51%	69
1698–99	4	36	40	10%	2	3	5	40%	6	10	16	38%	66%	61	33%	12
1703–04	14	60	74	19%	2	13	15	13%	12	6	18	67%	69%	107	50%	28
1705	18	31	49	37%	0	2	2	0%	6	7	13	46%	77%	64	75%	24
1707	20	19	39	51%	1	5	6	17%	5	5	10	50%	71%	55	77%	26
1709	10	37	47	21%	7	9	16	44%	2	1	3	67%	71%	66	53%	19
1710	10	18	28	36%	3	6	9	33%	5	8	13	38%	56%	50	56%	18
1711	11	10	21	52%	0	6	6	0%	2	5	7	29%	62%	34	85%	13
1713	0	16	16	0%	0	6	6	0%	1	2	3	33%	64%	25	0%	1
1715–16	20	16	36	56%	2	4	6	33%	9	4	12	75%	67%	54	65%	31
1717	13	16	29	45%	3	1	4	75%	2	0	2	100%	83%	35	72%	18
1719	18	19	37	49%	6	2	8	75%	3	0	3	100%	77%	48	67%	27
1721–22	14	25	39	36%	2	2	4	50%	0	0	0	0%	91%	43	88%	16
1723–24	15	24	39	38%	3	6	9	33%	4	2	6	67%	72%	54	68%	22
1725–26	16	16	32	50%	1	5	6	17%	0	0	0	0%	84%	38	94%	17
1727–28	18	10	28	64%	8	5	13	62%	4	2	6	67%	60%	47	60%	30
1729–30	24	14	38	63%	3	1	4	75%	1	1	2	50%	86%	44	86%	28
Total	260	467	727	36%	44	106	150	29%	99	89	187	53%	68%	1064	65%	403

6.8.2 Rate of acts enacted to sitting days

Session	Sitting days ²⁶⁹	Acts enacted ²⁷⁰	Days per act
1692	25	4	6.3
1695–97	166	69	2.4
1698–99	80	12	6.7
1703–04	80	28	2.9
1705	59	24	2.5
1707	68	26	2.6
1709	68	19	3.6
1710	51	18	2.8
1711	53	13	4.1
1713	26	1	26.0
1715–16	93	31	3.0
1717	69	18	3.8
1719	69	27	2.6
1721–22	73	16	4.6
1723–24	95	22	4.3
1725–26	76	17	4.5
1727–28	82	30	2.7
1729–30	97	28	3.5
Totals/average	1,330	403	3.3

²⁶⁹ Figures for Commons from Appendix 6.1

²⁷⁰ Figures from *ILD*

6.9 Outcome of possible bills on list prepared for 1703–04 session

	Bills on list ²⁷¹	Legislative progress	Background and commentary	Enacted
1	Act of recognition	Draft sent to London July 1703; rejected by the English Privy Council	Rejected on grounds that such a bill was not necessary in England ²⁷²	-
2	Act for opening mines	Heads introduced in the Commons in Oct 1703 to repeal a statute against multiplying gold and silver, and to prevent disputes and controversies concerning royal mines; managed by John Cliffe, Tory lawyer; did not emerge from the Commons	Previous attempts to legislate about mines in the 1690s had been unsuccessful; the attempt in 1695 had originated in Lords and was rejected by the English Privy Council	-
3	Act against dormant bonds and judgments	Draft sent to London July 1703; rejected by the English Privy Council	Previous attempt to legislate in the 1690s had been unsuccessful; it had originated in Lords and failed as a bill in Commons.	-
4	Act to prohibit butchers being graziers	Heads introduced in the Commons Sep 1703; managed by Edward Singleton, a court supporting Member who had managed one of the earlier bills	Three attempts to legislate in the 1690s had been unsuccessful; one emerging from each originating body	2 Anne c.15
5	Act to prevent clandestine marriages	Never emerged	A previous attempt to legislate in the 1690s had been unsuccessful; it had originated in Lords and failed as a bill in Commons; later unsuccessful attempts in 1705, 1711 and 1713.	-
6	Act to encourage Protestant strangers	Never emerged	Following legislation enacted in 1692, a second Commons heads had been rejected by the English Privy Council in 1697	-
7	Act to prevent the further growth of Popery.	Two bills emerged: one as heads originating in Commons and the other from the Irish Privy Council	<i>ILD</i> advises that it 'has been assumed here that the final approved version' was based on the Irish Privy Council's bill	2 Anne c.6
8	Act to qualify jurors	Heads introduced in Lords; did not progress further	Further heads in 1709 did not emerge from Lords	-
9	Act to encourage importation of iron and staves	Draft sent to London July 1703; Privy Council bill enacted	Previously Commons heads rejected by the English Privy Council in 1698	2 Anne c.2
10	Act to prevent destruction of the fry of herring, salmon and pilcher	Heads introduced in the Commons in Oct 1703; managed by Robert Echlin, a court supporting Member; heads did not emerge from the Commons	Previous Irish Privy Council bill had been rejected by the English Privy Council in 1698 and three subsequent Commons heads (1705, 1707 and 1709) were rejected by the Irish Privy Council	-
11	Act for the more easy recovery of tithes of the value of 40s or under	Heads for the more easy recovery of tithes and other ecclesiastical dues and to prevent frequent excommunications introduced in the Lords; rejected by the Irish Privy Council	Five failed attempts to legislate on tithes in 1690s; and further failures in most sessions until 1719	-
12	Act to improve the barren and unprofitable lands of the kingdom	Never emerged	Heads originating in the Commons in 1698 rejected by the Irish Privy Council	-

²⁷¹ See p.216 above.

²⁷² *SP, Entry Book 3*, pp.134-136 (*CSPD: Anne 1703-04*—8 July 1703)

Bills on list ²⁷¹		Legislative progress	Background and commentary	Enacted
13	Act for quieting possessions and disposing of undisposed and plus acres.	Draft sent to London July 1703; Irish Privy Council bill enacted	Two statutes enacted in 1690s for confirming estates and possessions held and enjoyed by the acts of settlement and explanation; in 1703 also act for quieting ecclesiastical persons [in their possessions?]	2 Anne c.8
14	Act to continue the Act against tories, rapparees and robbers and for trials of Regulars that come from beyond seas	Draft sent to London July 1703; Privy Council bill enacted	Continued two previously enacted statutes	2 Anne c.13
15	Act for making the estates of minors liable for their debts during their minority	Heads introduced in the Commons in Oct 1703; managed by Walter Pollard, an MP in opposition; heads rejected by the Irish Privy Council	Two previous attempts in 1690s to legislate failed; as did a further attempt in 1709	-
16	Act for granting the additional duties of Excise for one year	Draft 'short money' bill sent to London July 1703; Irish Privy Council bill enacted	Bill was necessary to safeguard 'royal prerogative' agreed as part of the compromise on 'sole right' in 1695	2 Anne c.1

6.10 Comparison of private legislation enacted at Dublin and Westminster

Year	Dublin private acts	Westminster Private acts	of which applied to Ireland ²⁷³
1692		34	1
1693		2	
1694		52	
1695	16	41	
1696		28	1
1697	4	62	1
1698	3	59	
1699		38	
1700		36	1
1701		2	1
1702		101	38
1703	9	51	4
1704		61	2
1705	7	68	3
1706		48	1
1707	7	30	1
1708		36	1
1709	6	24	0
1710	6	40	5
1711	5	41	2
1712		24	1
1713		25	4
1714		48	
1715	7		
1716		33	2
1717	2	25	
1718		25	
1719	9	36	1
1720		34	1
1721		22	
1722		22	
1723	11	26	
1724		43	1
1725	7	31	1
1726		36	1
1727	3	31	
1728		32	1
1729	5	21	1
1730		33	1
Total	107	1401	8%

²⁷³ Based on legislation.gov.uk; figures exclude acts to enable appointees to take oath of office for an Irish post in England, which may account of higher numbers in *HoP(1690)(I)*, p.531.

6.11 Members who sat in House of Commons before 1692²⁷⁴

Surname		Constituencies (1692 and later)	1692 Parl	1695 Parl	1703 Parl	1713 Parl	Later Parls	1641 and 1661 Parls	1689 Parl	Earlier constituencies	Political outlook
Barry	James	Rathcormack	•	•	•	•	1		•	Rathcormack	Opposed Lord Chancellor Porter
Brownlow	Arthur	Co. Armagh	•	•	•				•	Co. Armagh	Supported Lord Chancellor Porter
Butler	Francis	Belturbet	•	•				1662–66		Belturbet	Supported Lord Chancellor Porter
Campbell	Charles	Newtownards		•	•	•	2	1661–66		Newtown[ards ?]	Supported Lord Chancellor Porter
Coglan	Joseph	Limerick Bor.	•	•					•	Trinity College	Supported Lord Chancellor Porter
Cole	Michael	Enniskillen	•	•	•			1665–66		Enniskillen	Opposed Lord Chancellor Porter
Colvill	Robert	Co. Antrim	•	•				1661–66		Co. Antrim	1660s supporter of Presbyterians; 1690s supported Lord Chancellor Porter
Davis	Hercules	Carrickfergus	•	•	•			1661–66		Belfast	Supported Lord Chancellor Porter
Edge- worth	John	St. Johnstown (Longford)	•	•				1661–66		Clonmines	Supported Lord Chancellor Porter
Eustace	Maurice	Harristown	•	•				1664–66		Knocktopher	
Fitzgerald	Robert	Co. Kildare	•	•				1661–66		Co. Kildare	
Hamilton	Charles	Killybegs	•	•	•			1661–66		Co. Donegal	Supported Lord Chancellor Porter
Hamilton	Francis	Co. Cavan	•	•	•	•		1661–66		Co. Cavan	Opposed Lord Chancellor Porter
Hamilton	James	Co. Down; Bangor	•	•	•			1666		[Strabane?]	Supported Lord Chancellor Porter
Handcock	William	Athlone; Co. Westmeath	•	•	•			1661–66		Co. Westmeath	Supported Lord Chancellor Porter
Hoey	William	Carysfort		•				1665–66		Naas	Supported Lord Chancellor Porter
Ingoldsby	Henry	Co. Clare		•				1661–66	•	Co. Clare	Supported Lord Chancellor Porter
King	William	Co. Limerick	•	•				1661–66		Co. Limerick	
King	Robert	Co. Roscommon	•	•	•			1661–66		Ballyshannon	Supported Lord Chancellor Porter
Lambard	Oliver	Kilbeggan	•	•				1661–66		Kilbeggan	Supported Lord Chancellor Porter
Lestrange	Thomas	Banagher	•	•	•		1	1666		Banagher	Supported Lord Chancellor Porter
Loftus	Dudley	Fethard (Wexford)	•					1642–8, 1661–66		Naas; Bannow	
Loftus	Nicholas	Fethard (Wexford)		•				1661–66		Fethard (Wexford)	Supported Lord Chancellor Porter
Meade	John	Co. Tipperary	•	•	•				•	Trinity College	Supported Lord Chancellor Porter
Mervyn	Henry	Co. Tyrone	•	•				1661–66		Augher	Opposed Lord Chancellor Porter
Muscamp	Denny	Blessington		•				1665–66		Swords	Supported Lord Chancellor Porter
Nugent	James	Fore	•						•	Fore	
Plunket	Walter	Granard	•	•				1661–66		Gorey	Supported Lord Chancellor Porter
Pooley	Thomas	Newcastle		•				1661–66		Mallow	Supported Lord Chancellor Porter
Shaen	James	Baltinglas	•	•				1661–66		Clonmel	-
St. George	Arthur	Athlone	•	•				1661–66		Athlone	Supported Lord Chancellor Porter

²⁷⁴ Data from *HIP*

Surname		Constituencies (1692 and later)	1692 Parl	1695 Parl	1703 Parl	1713 Parl	Later Parls	1641 and 1661 Parls	1689 Parl	Earlier constituencies	Political outlook
St. George	Oliver	Co. Galway	•	•				1661–66		Co. Galway	
St. Leger	John	Doneraile; Tralee	•	•				1661–66		Co. Cork	Supported Lord Chancellor Porter
Upton	Arthur	Co. Antrim	•	•				1661–66		Co. Antrim	A strong Presbyterian
Weaver	John	Queen's Co.; Maryborough	•	•				1661–66		King's Co	Supported Lord Chancellor Porter
Totals			29	33	12	3	4	30	6		

6.12 Operation of Committee of Privileges and Elections

6.12.1 Comparison of terms of appointment of Dublin and Westminster Committees of Privileges and Elections

Irish House of Commons (30 Aug 1695)	English House of Commons (12 Nov 1694)
<p>Committee of Privileges.²⁷⁵</p> <p><i>Ordered</i>, That a Committee of Privileges and Elections be appointed, and they are to meet on <i>Tuesday</i> next, at four of the clock in the afternoon, in the Speaker's Chamber, and to sit every <i>Tuesday</i> and <i>Thursday</i> in the afternoon, in the place above-mentioned, and to adjourn to the House, if they think fit, and all that come are to have voices; and they are to take into their consideration all such matters as shall or may come in question, touching returns, elections, and privileges, and to proceed on double returns in the first place, and report their proceedings, with their opinion there therein to the House, from time to time; and all persons will question returns, are to do in fourteen days next and so within fourteen days after any new returns shall be brought in; and the committee is to have power to send for persons, papers, and records further information; and all Members who are returned for two more places, are to make their elections by <i>Tuesday</i> fortnight for which of the places they will serve provided there be no question upon the return for that place and if anything shall come in question touching the return, election, or matter of privilege of any Member, he is to withdraw during the time the matter is in debate.</p>	<p>Committee of Privileges.²⁷⁶</p> <p><i>Ordered</i>, That a Committee of Privileges and Elections be appointed, of [87 names]; and they are to meet on <i>Monday</i> next, at three of the clock in the afternoon, in the Speaker's Chamber; and to sit every Monday, Wednesday, and Friday, in the afternoon, in the place above-mentioned: and all that come are to have voices: and they are to take into their consideration all such matters as shall or may come in question, touching returns, elections and privileges; and to proceed upon double returns in the first place; and to report their proceedings, with their opinion therein, to the House from time to time: and all persons that will question returns, are to do it in fourteen days next; and so within fourteen days after any new return shall be brought in: and the committee is to have power to send for persons, papers, and records, for their information: and all Members who are returned for two or more places are to make their elections by this day three weeks, for which of the places they will serve, provided there be no Question upon the return for that place: and if anything shall come in question, touching the return, election, or matter of privilege, of any Member, he is to withdraw during the time the matter is in debate.</p>

²⁷⁵ CJI(II), p.45; in 1692 committee had 94 members (CJI(1st edn)(II), pp.583-84).

²⁷⁶ CJE(XI), p.171

6.12.2 Contested elections referred to the Committee of Privileges and Elections

Session	Electoral issues raised (mostly contested elections) ²⁷⁷	To Committee of Privileges and Elections ²⁷⁸	Committee reported
1692	9	9	4 ²⁷⁹
1695–97	25	22	14
1698–99	1	1	1
1703–04	12	10	8
1704–05	1	1	1
1707	6	6	3
1709	6	3	1
1710	3	0	0
1711	0	0	0
1713	19	14 ²⁸⁰	1 ²⁸¹
1715–16	27	23	15
1717	3	3	2
1719	5	4 ²⁸²	4
1721–22	2	1	2
1723–24	3	3	3
1725–26	3	2	1
1727–28	48 ²⁸³	36	21
1729–30	8	4	1

²⁷⁷ Includes motions and other complaints; petitions and counter-petitions have been counted as separate cases.

²⁷⁸ Cases not referred to the committee include those where the election petition was rejected outright by the Commons and cases which the House dealt with directly itself by, for example, summoning parties to the bar.

²⁷⁹ Session ended early and so the committee was unable to report on referred cases; one case re-committed.

²⁸⁰ One case was referred back to bar.

²⁸¹ Session ended early and so the committee was unable to report on referred cases.

²⁸² Two cases were referred back to the bar.

²⁸³ The volume of cases was such that four cases had to be re-submitted in the following session.

6.12.3 Statistics on election disputes²⁸⁴

Session No.	General election ²⁸⁵	By-elections	Petitioner successful ²⁸⁶	To Committee of Privileges and Elections/ reported	Heard at bar	With-drawn ²⁸⁷
First parliament of William III and Mary II, 1692–93; assembled 5 Oct 1692; dissolved 26 June 1693						
1	6 ²⁸⁸ (3)	0	2	6/4	0	0
Second parliament of William III, 1695–99; assembled 27 Aug 1695; dissolved 14 June 1699						
1	19 (11)	4 (3)	3	18/10	0	2
2		1 (1)		1/1	0	0
First parliament of Anne, 1703–13; assembled 21 Sep 1703; dissolved 6 May 1713						
1	12 (10)	0	2	9/3	2	3
2		1 (1)	1	1/1	0	0
3		6 ²⁸⁹ (4)	0	5/3	0	1
4		3 ²⁹⁰ (2)	1	3/1	2	0
5		2 (2)	1	0	2	0
6		0	0	0	0	0
Second parliament of Anne, 1713–14; assembled 25 Nov 1713; dissolved 1 Aug 1714 (death of monarch)						
1	19 (8)	0	3	12/1	7	1
Parliament of George I, 1715–27; assembled 12 Nov 1715; dissolved 11 June 1727 (death of monarch)						
1	19 ²⁹¹ (19)	0	4	17 ²⁹² /8	7 ²⁹³	5
2		3 (2)	1	3/1	0	1
3		5 (4)	3	4 ²⁹⁴ /1	3	0
4		2 (2)	1	1/1	1	0
5		2 ²⁹⁵ (2)	1	2/2	0	0
6		3 (3)	1	2/1	1	1

²⁸⁴ The figures in the table showing contested elections (or, in the terms of CJI, 'controverted elections' where there was a petition or petitions) have required the exercise of judgment—for example, depending on the context some counter-petitions and supplementary petitions have been treated as single cases and, where a case was recovered from committee to the bar, it has been treated as both referred to the committee and heard at the bar.

²⁸⁵ Figures in brackets are an estimate of cases with a recorded outcome by end of session, that is where the House determined the case, parties settled by withdrawal of petition or the House refused to consider (i.e. rejected) the case.

²⁸⁶ Entries which show a successful petitioner unseating sitting MP are included but not cases concerning double returns.

²⁸⁷ Column records cases where there is evidence of withdrawal, usually a vote entry allowing withdrawal. Numbers are probably understated.

²⁸⁸ Excludes three counter-petitions and supplementary petitions

²⁸⁹ Includes one case that came at the end of the session and was re-submitted at the beginning of the following session

²⁹⁰ Excludes three counter-petitions and supplementary petitions

²⁹¹ Excludes seven counter-petitions and two supplementary petitions

²⁹² Includes four cases where the committee was discharged and which were recovered to the bar of the House

²⁹³ Limited proceedings at the bar as four petitions were withdrawn

²⁹⁴ Includes two cases where the committee was discharged and which were recovered to the bar of the House

²⁹⁵ Excludes a supplementary petition

Session No.	General election ²⁸⁵	By-elections	Petitioner successful ²⁸⁶	To Committee of Privileges and Elections/ reported	Heard at bar	With-drawn ²⁸⁷
Parliament of George II 1727–60; assembled 28 Nov 1727; dissolved 25 Oct 1760 (death of monarch)						
1	37 ²⁹⁶ (29)		11 ²⁹⁷	34/17	3	9
2	4 ²⁹⁸ (4)	4 (4)	0	5/2	3	6
Totals	116 (84)	36 (30)	35	123/63	31	29

²⁹⁶ Excludes 11 counter-petitions and supplementary petitions

²⁹⁷ Figures exclude double returns and obvious counter-petitioners

²⁹⁸ Cases that arose following the general election of 1727 that were not dealt with until the 1729–30 session or were attempts to re-open cases

6.13 Procedural orders, rules and precedents of House of Commons

6.13.1 Orders, standing orders and rules of the Irish House of Commons

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
Absence from the House		
Order	<p>Leave of absence</p> <p>'It is ordered that none of the Members of this House shall from henceforth absent themselves from the service of this House, but such as shall ask leave first of Mr Speaker, and enter their names with the clerk of this House'. The House appointed two Members (William Plunkett and Stephen Stephens) to impose the fines upon several Members, who, upon the call of the House, were found to be absent (18 June 1641, <i>CJI(I)</i>, p.234).</p>	<p>From the earliest surviving records of the House of Commons it was a requirement for a Member seeking to absent himself to first obtain the leave of the House—for example, 9 Dec 1549, <i>CJE(I)</i>, p.13.</p>
Bills		
Rule	<p>Alms</p> <p>'It is this day allowed by the House for a Rule, that five pounds be given to the poor for every private bill that passeth' (24 Oct 1614, <i>CJI(I)</i>, p.17).</p>	<p>Irish procedure followed Westminster, where it was an 'Order that upon every private bill, something must be given to the poor, which will do them much good, and no harm, to the preferers thereof' (15 Dec 1601, <i>CJE(I)</i>).</p>
Standing rule	<p>Committal</p> <p>'Resolved, That after this day no public or private bill is passed, without being first committed after second reading, and that this be the standing Rule of this House' (4 Sep 1697, <i>CJI(II)</i>, p.185).</p>	<p>Neale, <i>The Elizabethan House of Commons</i>, p.376, and Porritts, <i>Unreformed House (I)</i>, p.331 indicate that by the time of James I practice was to send bills to committee after second reading.</p>
Resolution	<p>Counsel, hearing of</p> <p>'Resolved, that, in case of counsel, counsel may be heard between the second reading and the commitment' (22 Oct 1614, <i>CJI(I)</i>, p.16).</p>	<p>In Westminster procedure, second reading was the usual point at which counsel was heard; there are examples of counsel being heard at second reading from before this time—for example, 3 May 1604, <i>CJE(I)</i>, p.197, 13 Mar 1606, <i>CJE(I)</i>, p.352, 9 May 1607. <i>CJE(I)</i>, p.372 provides instance when counsel was heard at third reading).</p>
Bills, heads of		
Standing order	<p>Petition, scrutiny of (for private bills)</p> <p>'Ordered, That before any petitions be received for any private bills, that a committee be appointed to inspect such petitions, and report their opinion concerning the same to the House' (22 Oct 1692, <i>CJI(II)</i>, p.21).</p> <p>'Resolved, That no heads of any private bill be brought into the House but upon a petition preferred to the House, nor until the matter of such petition, and the nature of the case, have been reported by a committee, with their opinion thereon.</p> <p>'Ordered, That this be entered as the standing Order of the House' (12 Nov 1703, <i>CJI(II)</i>, p.365).</p>	<p>P.D.G. Thomas states that the 'practice of referring private petitions to a committee was so customary ... that it was often assumed to be invariable: [in] 1724 Speaker Crompton had to remind Members that each such decision was the choice of the House'. (Thomas, <i>House of Commons</i>, p.58)</p> <p>In contrast to Dublin, Westminster on several occasions, the first of which was 12 Nov 1705 (<i>CJE(XV)</i>, p.18), ordered that all private bills be printed. The requirement was made a standing order on 5 Mar 1722 (<i>CJE(XX)</i>, p.161).</p> <p>'Ordered, That, for the future, no private bill be brought into this house, but upon a petition first presented, truly stating the case, at the peril of the parties preferring the same: and that such petition shall be signed by the parties who are suitors for such bill' (26 May 1685, <i>CJE(IX)</i>, p.719). [Made a standing Order, 24 Nov 1699.]</p>

Orders, standing orders, rules, etc. of the Irish House of Commons	Commentary and English/British equivalent
<p>Order</p> <p>Notice of committee meeting (for private bills)</p> <p>'Ordered, That notice in writing be fixed on the door of this House, eight days before any committee proceed to [a] petition [for a heads of a private bill]' (12 Nov 1703, <i>CJI</i>(II), p.365).</p>	<p>There is no direct equivalent at Westminster but notices were posted up on the door of the House—for example, 'Ordered, That the standing committee of this House be posted up at the door of this House, that persons may take notice where they sit' (26 May 1660, <i>CJE</i>(VIII), p.46).</p> <p>In addition, parties had to be notified of contents—for example, on 31 Mar 1698 the House 'ordered That the chairman of the committee, upon the report of every private bill, do acquaint the House, That the allegations of the bill have been examined; and that the parties concerned have given their consents, to the satisfaction of the committee: and that the same be a standing Order of the House' (<i>CJE</i>(XII), p.625). No similar requirement was explicitly placed on Irish chairmen.</p>
<p>Instruction</p> <p>Standardised drafting in heads (for private bills)</p> <p>'Ordered That it be an instruction to all committees appointed to prepare heads of a bill to prevent persons from being disinherited upon account of being Protestants, to insert the like clauses in such heads of private bills' (2 Oct 1703, <i>CJI</i>(II), p.326).</p>	<p>The concept of standard clauses was used at Westminster. The House ordered, 'That in all private bills, for the future, a clause be inserted, That the trustees therein named shall be obliged to see the trusts in the said bills performed, or be liable to the same out of their own estates' (26 Mar 1678, <i>CJE</i>(IX), 461).</p>
<p>Order</p> <p>Reading of heads</p> <p>'Ordered, <i>nemine contradicente</i>, That all heads of bill, which pass through a committee of the whole House, shall receive a reading after the report made, and before the same be made to the government, in order to be transmitted in due form into Great Britain' (10 Feb 1723/4, <i>CJI</i>(III), p.388).</p>	<p>There is no Westminster equivalent. The implication is that this did not always happen in the Irish House of Commons and the order brought the heads process in line with bill procedure where, after report, it was given a further reading, third reading.</p>
<p>Orders</p> <p>Copies of heads</p> <p>'Ordered, That all heads of bills, prepared by order of this House, be taken and kept by the clerk of this House, for the use of this House' (30 July 1697, <i>CJI</i>(II), p.157).</p> <p>'Ordered, That notice be taken in the Journal from time to time of what bills are sent by this House to the chief governors and by whom the same are sent, and that copies of such bills so prepared and sent be kept by the clerk' (31 July 1697, <i>CJI</i>(II), p.157).</p>	<p>The heading in the margin makes it clear that the first entry concerned the making and keeping of copies. There was no Westminster equivalent; it may have not been so pressing at Westminster where a bill was not taken out of the Palace of Westminster. In contrast, in Ireland heads sometimes were lost and there was political, even constitutional, sensitivities about changes made to bills by the Privy Councils in Dublin and London.</p>
Committees	
<p>Sense of the House</p>	<p>Adjournment</p> <p>'It is declared to be the sense of the House, That where an order of the House is made to adjourn all committees, that it is not intended thereby that any of the standing committees, to meet at any day after is adjourned thereby; but that any such standing committee may need to enter on their business on the next following day for their meeting, notwithstanding such adjournment of all committees' (23 Aug 1697, <i>CJI</i>(II), p.174).</p> <p>The practice of deferring, adjourning and reviving committees at Westminster appears from the reign of James I (see for example, <i>CJE</i>(I), pp.431, 703 and 891). Evidently there was confusion at Westminster too as to what an order to adjourn all committees meant: P.D.G. Thomas records that in 1721 the Speaker explained that the order applied only the committees meeting that day, not to any arranged for the next morning; he said this was according to an order of 1699—apparently that made on 29 Jan 1699/1700, <i>CJE</i>(XIII), p.158 (Thomas, <i>House of Commons</i>, p.266).</p>

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
Misreported to the House		
Agreement of the House	'... it was agreed by the House, that if a gentleman should mis-report from the committee, one of the same committee may stand up, and acquaint the House, and, till the House be fully thereof satisfied, the gentleman is to deliver in the bill and amendments (if any be) and then he is to stand by the clerk's Table, and read first all the strikings out, and then all additions' (2 Nov 1614, <i>CJI(I)</i> , pp.19-20).	This arose from a specific case but was of general application; it does not appear to have been repeated.
Conferences with the Lords		
See also precedents in Appendix 6.13.3.		
Permanent record made of order	'Ordered That a committee to meet at the Speaker's chamber this afternoon, at three of the clock, to draw up an order, together with the reasons which induced this House to agree that the managers for this house, on a free conference with the Lords, to stand within the rails at the Table uncovered, to the end the same may be entered in the Journals of this House, to remain in posterity' (24 Oct 1695, <i>CJI(II)</i> , p.107).	There is no direct equivalent in the Westminster Journals but conferences with the Lords were subject to precedents and rigid rules and Hatsell's <i>Precedents</i> record that 'a rail was set on that side of the table in the Painted Chamber on which the Members of the House of Commons are to stand at Conferences, to the end that those Members who are appointed managers or reporters of Conferences, may not be disturbed by the press of other persons standing behind them' (<i>Precedents</i> (IV), p.31)
Debates		
Speeches in debate, limit on		
Order	'Ordered ... that no Member, who has already spoken to the same business since that question was put, do, without the leave of this House, speak further thereunto' [Appears to refer to an adjourned debate] (24 July 1661, <i>CJI(I)</i> , p.435).	On 23 June 1604 the Westminster House of Commons 'agreed for Rule if a bill be continued in speech from day-to-day, a man may not speak twice to the matter of the bill' (<i>CJI(I)</i> , p.345). Hatsell's <i>Precedents</i> provide some information on the provenance of the rule by citing an 'ancient' order of the English House of Lords: 'No man is to speak twice to any bill at any one time of reading it, or any other proposition, unless it be to explain himself in some material point of his speech; but no new matter; and that not without leave of the House first obtained;' which was this day confirmed' (<i>Precedents</i> (II), p.105). Hatsell points out that the Speaker would intervene to stop a Member speaking twice (<i>Precedents</i> (II), p.104).
Speaking more than once in debate		
Order: take notice	'Ordered, That the Members of this House take notice, that it is the constant parliamentary practice and course, that Members speak but once to a matter in debate, except in the case of privilege, and except were new matter has arisen on the debate; and that where any Member shall speak to any matter more than once, except in the cases aforesaid, Mr. <i>Speaker</i> shall take notice thereof, to keep the Members to the orders of the House' (6 Aug 1697, <i>CJI(II)</i> , p.160).	
Divisions		
Attendance required during debate		
Rule	'Ordered upon Question, that it be entered in the Journals, as a Rule of this House, that when any business is debated, which shall cause a question to be put, and the sense of the House for putting the same cannot be known, until it comes to a question, whether the question shall be put or not, that then no Member of the House, who was absent at such debate, shall give his vote; and if it be carried in the affirmative, and the question be thereupon put, those persons are likewise to be excluded their votes, and to withdraw themselves from the rest of the House, until the matter be determined' (27 May 1662, <i>CJI(I)</i> , p.510, 9 Nov 1665, <i>CJI(I)</i> , p.664).	There is no Westminster equivalent; this appears to be a rule difficult to enforce if it refers to the whole debate; Rule never referred to after 1665.
No Member to persuade another how to vote		
Rule	'Ordered, that it be entered as another Rule of this House, that when a question is passed, upon which the House divided, no person shall solicit or privately persuade any Member either to stay within the House, or go out; that so all persons in such cases may have their free votes according to their judgments' (27 May 1662, <i>CJI(I)</i> , p.510).	No Westminster equivalent has been found.

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
	Time limit on request for division	
Resolution	'Resolved, That when the Speaker declares upon the putting of any question, and the House afterwards falls upon other new matters, there shall be no division of the House for determination of such a question, though it be desired' (17 June 1662, <i>CJI(I)</i> , p.524).	There is no Westminster equivalent; but it was implicit in English procedure that procedure for triggering division was upon the Speaker putting the question and that was the point at which the question was put and decided. Once decided and the House had moved to the next item of business it was not possible, in strict procedural terms, to reopen a decision.
Elections and electoral matters		
	Bribery	
Resolution	'Resolved, <i>nemine contradicente</i> , That in case it shall appear any person has procured himself to be elected or returned as a Member of this House, or endeavoured so to be, by bribery, or any other corrupt practices, this House will proceed with the utmost severity against such person' (12 Oct 1723, <i>CJI(III)</i> , p.333).	'Resolved, <i>nemine contradicente</i> , That in case it shall appear any person has procured himself to be elected or returned as a Member of this House, or endeavoured so to be, by bribery, or any other corrupt practices, this House will proceed with the utmost severity against such person' (13 Feb 1700/1, <i>CJE(XIII)</i> , p.327; repeated in subsequent parliaments).
	Confessional restriction on eligibility of Members	
Resolutions	'Resolved, <i>nemine contradicente</i> , that the electing of persons to be Members of this House, who are newly converted from the Popish to the Protestant religion, or who are married to Popish wives, or breed up, or suffer any of their children to be educated in the Popish religion, is highly prejudicial to the Protestant interest of this kingdom. 'Resolved, that no person that is, or shall be, converted from the Popish to the Protestant religion, ought to be elected or admitted to serve as a Member of this House for the space of seven years next after his conversion; and unless he produces a certificate of having received the sacrament, according to the usage of the Church of <i>Ireland</i> as by law established, thrice in every year during the said term' (22 Nov 1725, <i>CJI(III)</i> , pp.422-23).	No Westminster equivalent has been found.
	Catholic converts	
Resolution	'Resolved, That no person this is, or shall be, converted from the Popish to the Protestant religion ought to be elected or admitted to serve as a Member of this House for the space of seven years next after his conversion; and unless he produces a certificate of having received the sacrament, according to the usage of the Church of Ireland as by law established, thrice in every year during the said term' (22 Nov 1725, <i>CJI(II)</i> , pp.422-23).	Hayton points out that the change appears to have been precipitated by an attempt by a new convert to win a seat at a by-election (<i>Coghill Letters</i> , fn 95).
	Clerk of crown to issue writs expeditiously	
Resolution	'Resolved, <i>nemine contradicente</i> , That it is the duty of clerk of crown, as soon as warrant issued by Speaker of this House is issued, to send with all expedition the several writs, according to the order of this House, for the elections of Members to serve in parliament, to the several sheriffs to whom they are directed' (13 Sep 1721, <i>CJI(II)</i> , p.249).	

Orders, standing orders, rules, etc. of the Irish House of Commons	Commentary and English/British equivalent
<p>Double returns</p> <p>Instruction 'Ordered, That it be an Instruction to the Committee of Privileges and Elections, in all cases of double returns, to report the matter specially to the House, with their opinion thereupon' (2 Oct 1703, <i>CJI</i>(II), p.326).</p>	<p>When the Committee of Privileges and Elections was appointed on 25 Sep 1703 it contained a standard instruction to report on double returns within 14 days to the House (<i>CJI</i>(II), p.317). The Irish instruction appears not to have been a general instruction—for example, allowing the committee to examine cases after the deadline—but to concern the double return for Naas and should be read in conjunction with a motion made on 5 Oct that the order to the committee 'be enlarged, and that they examine and report, as well on the merits of the election, as the double return for the borough of Naas. It passed in the negative (<i>CJI</i>(II), p.327). The 2 Oct instruction was not separately repeated.</p>
<p>Members to withdraw</p> <p>Order 'Ordered, ... if anything shall come in question touching the return, election or matter of privilege of any Member, he is withdraw during the time the matter is in debate (30 Aug 1695, <i>CJI</i>(II), p.45).</p>	<p>The Irish order for the appointment of the Committee of Privileges and Elections follows English model: 'Resolved, That ... And if anything shall come in Question, touching the return, or matter of privilege, of any Member of this committee, such Member is to withdraw from the Committee of Privileges during the time the matter which concerns himself is in debate' (11 May 1661, <i>CJE</i>(VIII), p.247). The entry was repeated and included in the order of the Irish House of Commons appointing committees at that start of subsequent sessions. From 1703 the standard appointment also included the instruction that Members should withdraw until their double returns were determined.</p>
<p>Order 'Ordered, ... if anything shall come in question touching the return, election or matter of privilege of any Member, he is withdraw during the time the matter is in debate; and that all Members returned upon double returns do withdraw till their returns are determined' (25 Sep 1703, <i>CJI</i>(II), p.317).</p>	
<p>Peers prohibited from voting in elections</p> <p>Resolutions 'Resolved, <i>nemine contradicente</i>, That no peer of this realm has any right to give vote in the election of any Member, to serve in parliament' (16 Mar 1704/5, <i>CJI</i>(II), p.456). House agreed, <i>nemine contradicente</i>, with resolution from Committee of Privileges and Elections: 'that no peer or lord of parliament has a right to vote, or any way interfere in the election of Members to serve in parliament' (27 Oct 1725, <i>CJI</i>(III), p.410).</p>	<p>'Resolved, <i>nemine contradicente</i>, That no Peer of this kingdom has any right to give his vote in the election of any Member to serve in parliament' (14 Dec 1699, <i>CJE</i>(XIII), p.64; and repeated regularly at start of parliaments.)</p>
<p>Standing orders 'Resolved, <i>nemine contradicente</i>, that no peer of this realm has right to vote as mayor, or sovereign, portreeve, burgomaster, alderman, burgess, freeholder or freeman in the election of any person to serve as a Member of parliament. 'Resolved, <i>nemine contradicente</i>, that no lord of parliament or peer of this realm has any right to act as magistrate in making any return of a Member or Members to serve in parliament. 'Resolved, <i>nemine contradicente</i>, that his House will admit of no person that shall be returned by any lord of parliament or peer of the realm to sit as a Member of this House. 'Resolved, that the said resolutions be declared the standing orders of this House' (20 Dec 1727, <i>CJI</i>(III), p.488).</p>	<p>These orders supplement sessional orders issued in 1727 and 1729 (see Appendix 6.13.2).</p>
<p>Sheriffs' powers to designate place and timing of borough polls</p> <p>Resolution 'Resolved, That sheriffs in their mandates to magistrates of boroughs in their respective counties to re-elect burgesses, have not right to appoint either</p>	

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
	time or place of election' (22 Nov 1703, <i>CJI</i> (II), p.383).	
Resolution	Restrictions of quit-rent officers from influencing elections 'Resolved, That no collector or officer in the Exchequer or quit-rents to concern himself in elections of Members of parliament, or influence others in disposing their votes in elections, within their several collections or districts' (9 Oct 1707, <i>CJI</i> (II), p.542).	
Resolution	Restriction on sheriffs and other officers voting 'Resolved, That no sheriff of the county, mayor, provost, portreeve, sovereign, or other chief magistrate of any city, town, borough or corporation, nor seneschal of a manner had the right to vote in the election (except where the votes of the other electors are equal) any usage accustomed to the contrary notwithstanding; unless where, by express, words of the charter, they have other or greater power, or where there has been usage to the contrary time out of mind in boroughs by prescription' (18 Dec 1713, <i>CJI</i> (II), p.769).	
Resolution	Returning officer must grant poll if demanded 'Resolved, That the refusing of a poll when demanded on the election of any Member to serve in parliament, by any sheriff or other officer having the return of persons in elected as Members of parliament, or any pretence whatsoever, is arbitrary and illegal' (27 June 1709, <i>CJI</i> (II), p.617).	
Resolution	Vexatious and frivolous petitioners 'Resolved, That where any petition against the election and return of any Member of this House shall be judged vexatious and frivolous, this House will order satisfaction to the Member petitioned against' (30 Sep 1703 and 27 Nov 1713, <i>CJI</i> (II), pp.323, 746).	Repetition in 1713 appears to have been part of Dublin election dispute and intended to prepare ground for such a subsequent finding.
Resolution	Prohibition on pressurising tenants to vote 'Resolved, <i>nemine contradicente</i> , that the obliging any tenant, by covenant, or under a penalty in his lease, to vote at the election of Members to serve in parliament for such persons as the landlord shall direct is a high infringement of the privileges of this House and destructive to the rights and liberties of the Commons of <i>Ireland</i> ' (7 Mar 1725/6, <i>CJI</i> (III), p.453).	No Westminster equivalent has been found.
Etiquette in the House		
Rule	Bar 'Allowed by the House for a Rule, that if the bar be down, no Member that coming in may open it, but must go about to his place' (24 Oct 1614, <i>CJI</i> (I), p.17).	The bar would be down when someone is at the bar of the House. At Westminster the bar was down when a witness was called in for examination by the House (Hatsell <i>Precedents</i> (II), p.140). No direct Westminster equivalent but such a rule may have been unnecessary as no Member would have raised the bar.
Order	Procedure at rising of the House 'Ordered, That in going out of the House, no man do stir until Mr. Speaker do arise and go before, and then all the rest to follow him' (9 Dec 1713, <i>CJI</i> (II), p.758).	Westminster Journal entry of 7 May 1607 'Ordered, upon Question, That in going forth, no Man should stir, until Mr. Speaker did arise and go before; and then all the rest should follow after him' (<i>CJE</i> (I), p.371).

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
Fees		
	Clerks' and officers' fees	
Instruction	When orders of summons were issued for disturbing Members in their possessions or breach of privilege 'and, after such orders granted, persons ... have reconciled themselves unto the said Members, who have thereupon forbore further prosecuting such persons, by which the officers of this House are disappointed of their just fees; for prevention thereof, it is ordered upon question, That all persons to whom due notice to appear before this House, shall ... enter their appearance with the clerk of this House and satisfy and pay unto the respective officers their fees, notwithstanding their agreement with the parties complaining against them; which if they shall neglect and refuse to perform, the Speaker ... is empowered to issue out warrants, from time to time, for attaching the bodies of such refractory persons, and securing them until they be discharged by order of this House' (3 Nov 1692 (<i>CJI</i> (II), p.34).	For clerks' and officers' fees see Appendices 6.5 and 6.13.2.
	Fees paid to clerk of House	
Order	'It is ordered, that no petition shall hereafter be presented to be read before the House, or before any committee, but the clerk is to have his fee first paid him for the reading thereof; except of the petitions of the Members of this House, for which he is to have no fee; and the said clerk is to promote the petitions in order, viz. the public petitions in the first place' (5 June 1641, <i>CJI</i> (I), p.224). 'Ordered upon Question, no petitions to be read in this House until the clerk first receive his fee of five shillings due for each petition, whereof all persons concerned are to take notice' (13 Dec 1665, <i>CJI</i> (I), pp.682-83).	'Ordered, That no private ordinance do pass this House, to be transmitted to the Lords, until the parties that are concerned therein, do first pay such fees for the same, unto Mr. Speaker, the Clerk, Serjeant, and others belonging to the said House, as has usually been paid upon the passing of private bills: and all Members, that from any committee or otherwise, do present any ordinance, wherein the advantage or benefit of any private person is concerned, are desired to take notice of this order; and to acquaint the persons that are or shall be concerned herewith; and to appoint them first to pay such ancient and accustomed fees, as aforesaid, to Mr. Speaker, the clerk, and other the officers of the said House' (13 Dec 1644, <i>CJE</i> (XIII), p.722). On fees also see Appendix 6.13.2.
Financial (supply and ways and means) procedures and privilege		
	Initiation of new taxes	
Opinion	It was the House's opinion 'that no person was to bring into the House of Commons a bill to put a public charge or tax upon the kingdom, without having first the leave of the House granted for his so doing' (30 Mar 1666, <i>CJI</i> (I), p.729).	'It was declared, and acknowledged, to be against the fundamental Orders of the House, for any Member of the House, without special Order of the House, to bring in any bill of subsidy' (26 Jan 1641/2, <i>CJE</i> (II), p.397).
Resolutions	'Resolved, That it was, and is, the sole and undoubted right of the Commons of <i>Ireland</i> , in parliament assembled, to prepare and resolve the ways and means of raising money' (27 Oct 1692, <i>CJI</i> (II), p.28). 'Resolved, That it was, and is, the sole and undoubted right of the Commons to prepare heads of bills for raising money (27 Oct 1692, <i>CJI</i> (II), p.28).	'Resolved, &c. That all aids and supplies, and aids to his Majesty in parliament, are the sole gift of the Commons: And all bills for the granting of any such aids and supplies ought to begin with the Commons: And that it is the undoubted and sole right of the Commons, to direct, limit, and appoint, in such bills, the ends, purposes, considerations, conditions, limitations, and qualifications of such grants; which ought not to be changed, or altered by the House of Lords (3 July 1678, <i>CJE</i> (IX), p.509).
Derogations	'Resolved, That notwithstanding the aforesaid rights of the Commons, this House does think fit, upon consideration of the present exigencies of affairs and public necessity of speedily raising a supply for their Majesties to order a [supply] bill, transmitted out of <i>England</i> ... be now read ... 'Resolved, <i>nemine contradicente</i> , 'That the receiving or reading of the said bill, so transmitted aforesaid, be not drawn into a precedent hereafter' (27 Oct	See pp.133ff above.

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
	1692, <i>CJI</i> (II), p.28).	
Standing order	<p>Proceedings to be in committee of the whole House</p> <p>'Resolved, That this House will not proceed upon any petition, motion, address, bill, or vote of credit granting any money, but in a committee of the whole House, and that this be the Standing Order of the House' (5 Aug 1707, <i>CJI</i>(II), p.523).</p> <p>1707 order read and made standing order (10 July 1719, <i>CJI</i>(III), p.191).</p>	English procedure predated Irish and was similar. <i>CJE</i> for 18 Feb 1668 records: 'Resolved, ... that, if any Motion be made in the House for any public aid, or charge upon the people, the consideration and debate thereof ought not presently to be entered upon; but adjourned till such further day, as the House shall think fit to appoint; and then it ought to be referred to the committee of the whole House; and their opinions to be reported thereupon, before any resolution or Vote of the House do pass therein' (<i>CJE</i> (IX), p.52; repeated declared a standing order on 29 Mar 1707 and revived subsequently).
Standing order	<p>Money bill dependent on report of Committee of Accounts</p> <p>'Resolved, <i>nemine contradicente</i>, that no money bill be read in this House until the report from the Committee of Accounts be first made.</p> <p>'Resolved, that the said resolution be declared a standing order of the House' (17 May 1716, <i>CJI</i>(III), p.91).</p>	No Westminster equivalent has been found.
Standing order	<p>'Resolved, <i>nemine contradicente</i>, that no money bill be read in this House until the report from the Committee of Accounts be first made.</p> <p>'Resolved, that the said resolution be declared a standing order of the House' (9 Dec 1727, <i>CJI</i>(III), p.483).</p>	
Standing order	<p>'Resolved, <i>nemine contradicente</i>, that no money bill be read in this House until the report from the Committee of Accounts be first made.</p> <p>'Resolved, that the said resolution be declared a standing order of the House' (24 Sep 1729, <i>CJI</i>(III), p.582).</p>	
Resolution	<p>Exclusive and required method of representation</p> <p>[The convocation of the established church had objected to a clause in heads limiting tithes. The House] 'Resolved, <i>nemine contradicente</i>, That the Commons, in parliament assembled, are the true and only representatives, and entrusted with the civil rights and properties of all the Commons in Ireland, as well as clergy as laity'.</p>	Although no direct equivalent has been found, this sits with the constitutional claims of the Westminster Commons.
Resolution	<p>'Resolved, <i>nemine contradicente</i>, That no person, or body of men, whatsoever has, or have right to be heard against the passing any bill, or heads of a bill under the consideration of this House, but by leave first obtained from this House, upon the application of such person, or body of men by petition to this House, and not otherwise' (12 Mar 1704/5, <i>CJI</i>(II), p.447).</p>	
Membership of the House		
Standing order	<p>Prevention of resignation by Members</p> <p>'Resolved, <i>nemine contradicente</i>, That it be declared the standing order of this House, that no new writs for electing Members of parliament, in the places of Members excusing themselves from the service of this House, do issue at the desire of such Members, notwithstanding any former precedent to the contrary' (21 Mar 1704/5, <i>CJI</i>(II), p.460).</p>	Westminster procedure from at least 1624 was 'That [a] man, after he is duly chosen, cannot relinquish' his seat in parliament (2 Mar 1623/4, <i>CJE</i> (I), p.675). See pp.130ff above.
Order	<p>Minimum age to be a Member</p> <p>'It is ordered that none hereafter, under the age of twenty-one years, shall be elected or returned, or shall be admitted a Member of this House, to serve in parliament' (27 May 1641, <i>CJI</i>(I), p.218).</p>	See next entry.

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
Resolution	'Resolved, That a person under the age of twenty-one years, being returned to serve in parliament, is not capable of sitting as a Members in parliament' (19 Dec 1715, <i>CJI</i> (III), p.54).	Hatsell <i>Precedents</i> (II), pp.9-10, comments that the position was not settled until effected through legislation, 7-8 William II, c.5 which made 'void the election of any person who is not 21 years of age'.
Messages from monarch		
Letters from the monarch		
Order	'Ordered, that, when letters from His Majesty are read in the House, the Members thereof do continue uncovered' (13 June 1661, <i>CJI</i> (I), p.404).	
Motions		
Naming a beneficiary of a grant, etc.		
Order	'Ordered, That no Member of the House whatsoever, moving for a grant, gift or other favour to be conferred on any person, do name such person, without leave of the House first had and obtained' (19 July 1661, <i>CJI</i> (I), p.432).	No Westminster equivalent has been found; not cited again.
Deadline for presentation²⁹⁹		
Standing order	'Ordered, That it be a standing order of this House, that no new Motion be made after one o'clock, unless leave of the House be first obtained' (10 July 1707, <i>CJI</i> (II), p.496). 'Resolved, That no new motion be made, or any petition received after twelve o'clock, without leave of the House; and that the same be a standing Order of the House (1 June 1709, <i>CJI</i> (II), p.596). 'Ordered, That no new motion be made, or petition received, without the leave of the House after one o'clock, and that this be a standing Order of the House (14 July 1710, <i>CJI</i> (II), p.659).	Similar restrictions had been used in the Westminster Commons from the middle of the seventeenth century—for example, on 22 May 1644, 'Ordered, That no new motion, of any business whatsoever, shall be made after twelve of clock: and that Mr. Speaker shall not hear any new motion after twelve of clock' (<i>CJE</i> (IV), p.152); and a later example, from 2 Nov 1696, 'Resolved, That this House will, every morning, proceed upon public business, at ten a clock: and that no new motion be made after one a clock' (2 Nov 1696, <i>CJE</i> (XI), p.573).
No new motions after 1 o'clock		
Order	'Ordered, That no new motion be made after one o'clock' (19 Oct 1721, <i>CJI</i> (III), p.272).	See previous entry.
Petitions		
Moving a petition		
Rule/ order	'Agreed, for a Rule of the House, that before any private petition be read, it must be first moved by one of the House' (22 Oct 1614, <i>CJI</i> (I), p.16). 'It is ordered, that from henceforth no petition shall be openly read in the House, unless it be presented by a Member of this House, or called upon to be read by a Member of the same' (15 May 1641, <i>CJI</i> (I), p.206).	According to Edward and Annie Porritt, petitions had to be presented by a Member. There was one exception, the City of London which could present at the bar by its sheriffs. City of Dublin enjoyed a similar privilege in the Irish House of Commons (Porritts, <i>Unreformed House</i> (I), p.574 and <i>Thomas, House of Commons</i> , pp.17-19).
No letter to be directed to the whole House		
Rule	'It is thought to be entered as a Rule, that no letter ought to be directed to the whole House' (19 Nov 1614, <i>CJI</i> (I), p.25).	No rule of similar date has been found. An order made on 20 Mar 1728/9 may reflect practice: 'That for the future, when any letter or packet directed to this House shall come to Mr Speaker, he do open the same, and acquaint the House at their next sitting with the contents thereof, if proper to be communicated to the House' (<i>CJGB</i> (XXI), p.273).

²⁹⁹ It is not always clear whether these orders applied to the session, parliament or longer; see also Appendix 6.13.2.

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
Order	<p>Petitions to be on parchment</p> <p>'All petitions, answers and other pleadings ... to the House shall be exhibited in parchment [and be] filed by the clerk of the House' (20 July 1641 and 4 Sep 1661, <i>CJI(I)</i>, pp.263, 572).</p>	<p>It is not clear that the Irish practice of the 1640s and 1660s, which points to a requirement for petitions to be on parchment, persisted or was in accordance with Westminster practice. See 27 Apl 1604, 'That no petition, bill or other thing, to be treated in parliament, ought to be privately delivered into the House engrossed, but in paper' (<i>CJE(I)</i>, 2nd scribe).</p>
Order	<p>Petitions must be signed</p> <p>'Ordered, That no petition be read in this House, unless it be first signed' (12 Oct 1692, <i>CJI(II)</i>, p.14).</p>	<p>A petition had to set out a case and be signed English exemplar from 26 May 1685: 'Ordered, That, for the future, no private bill be brought into this house, but upon a petition first presented, truly stating the case, at the peril of the parties preferring the same: and that such petition shall be signed by the parties who are suitors for such bill' (<i>CJE(IX)</i>, p.719). Made a standing order, 24 Nov 1699.</p> <p>See also resolution made on 14 Nov 1689: 'that petitions had 'to be signed by the petitioners with their own hands, by their names or marks' (<i>CJE(X)</i>, p.285).</p>
Order/ Rule	<p>Petition against Member</p> <p>'It is ordered, from henceforth ... that no petition against any Member of this House shall be read, unless there be first an Order in this House conceived for the reading thereof, and the party first have notice thereof' (15 May 1641, <i>CJI(I)</i>, p.206).</p> <p>'Ordered upon question, that it be entered as a Rule in the Journal of the House, that where any person has a petition to prefer against any of the Members thereof, it be not read in the House until such time as it be first shown unto the Member concerned, but if he be absent in the country, without leave of this House, then no privilege to lie in the case' (5 Mar 1662, <i>CJI(I)</i>, p.639).</p> <p>A Member of this House, 'ought not to have made application to the House of Lords in a case, wherein another Member of this House was concerned, but should, if there had been any cause or reason for the same, have acquainted this House with his complaint, and have abided their order and pleasure therein' (6 May 1662, <i>CJI(I)</i>, pp.497).</p>	<p>No Westminster equivalent has been found; but in line with practice.</p>
View	<p>Warrant outstanding against petitioner</p> <p>No one could present a petition to the House if he had a warrant outstanding against him; proper course was to 'surrender himself to the Serjeant-at-Arms' (17 June 1662, <i>CJI(I)</i>, p.524).</p>	<p>No Westminster equivalent has been found.</p>
See also Elections above in this table.		
Post		
Resolution	<p>'Resolved, That it is the undoubted right and privilege of the Members of the House of Commons to have their letters post free, during the privilege of parliament' (13 Oct 1692, <i>CJI(II)</i>, p.15).</p>	<p>Westminster practice was for Members to have their correspondence carried post free, subject to certain limitations and restrictions.</p>
Resolution	<p>Forging an MP's signature</p> <p>'Resolved, <i>nemine contradicente</i>, that the forging or counterfeiting of the hand-writing of any Member of this House, in order to frank any letter, is a high infringement and breach of the privileges of this House thereof' (7 Mar 1725/6, <i>CJI(III)</i>, p.454).</p>	<p>This is in line with Westminster practice.</p>

Orders, standing orders, rules, etc. of the Irish House of Commons	Commentary and English/British equivalent
Privilege	
<p>Petitions alleging breach of privilege</p> <p>Order 'It is ordered upon Question by this House, that all petitions touching wrongs of the privileges of this House shall be referred to the Committee of Privileges, who are from time to time to consider the same, and to report their proceedings therein to this House, that such further order may be had and taken therein, as this House shall think fit' (17 Nov 1634, <i>CJI(I)</i>, p.81).</p> <p>'It is ordered upon question, that ... the answers to all petitions, exhibited by Members of this House against any person for breach of privileges of parliament, be referred to the Committee of Privileges, to examine matter of fact, and to report the same, from time to time, to this House, for their future consideration' (5 June 1662, <i>CJI(I)</i>, p.517).</p>	<p>The first order was not repeated and in subsequent parliaments was not always followed—for example, on 24 Oct 1710 the petition of John Whalley against John Mercer, who had started proceedings against Whalley for printing their address to the House of Commons (<i>CJI(II)</i>, p.724).</p> <p>Despite these exceptions—see pp.110ff above—at the turn of the seventeenth/eighteenth centuries Irish procedures appear to have been broadly in step with Westminster's:</p> <p>'<i>Resolved</i>, That no persons shall be taken into custody upon complaint of any breach of privilege of this House, before the matter be first examined.</p> <p>'<i>Resolved and Declared</i>, That the said Order is not to extend to any breach of privilege upon the person of any Member of this House' (31 Jan 1694/5, <i>CJE(XI)</i>, p.219)</p> <p>'That no person be taken into custody of the Serjeant-at-Arms, upon any complaint of a breach of privilege, until the matter of such complaint shall have been examined by Committee of Privileges and Elections, and reported to the House, and that same be a standing order of the House' (3 Jan 1701/2, <i>CJE(XIII)</i>, p.648).</p>
<p>Protections</p> <p>Standing order and rule 'Resolved, That all protections granted of this House granted to any who prosecute any bill extend to their persons only; and it is declared and ordered, that this be entered in the Journal of this House' (12 Dec 1695, <i>CJI(II)</i>, p.141).</p>	<p>No direct English equivalent has been found. See pp.106ff above.</p>
<p>Order 'Ordered, That all protections granted by the House, which had no express time-limit, continue a week after the recess of the House and no longer' (12 Dec 1695, <i>CJI(II)</i>, p.141).</p>	<p>No direct English equivalent has been found. See pp.106ff.</p>
<p>Rule 'Upon Question, it was ordered and set down as a Rule, that every attorney, in any suit against a Member of this House, shall be punishable here, as well as the principal; but not the learned counsel (18 Nov 1614, <i>CJI(I)</i>, p.24).</p>	
<p>Resolutions and order 'Resolved, <i>nemine contradicente</i>, That all written protections, and all protections entered with the clerks of the House, and in all offices of this kingdom, are declared void.</p> <p>'Resolved, <i>nemine contradicente</i>, That no person be protected by any Member of this House that it not a menial domestic servant of such Member receiving wages.</p> <p>'Resolved, <i>nemine contradicente</i>, That if any Member shall protect any person who is not his domestic menial servant receiving wages from him, such Member shall incur the highest displeasure and censure of this House.</p> <p>'Ordered, That the resolutions be posted up on the Four Courts, Tholsel and Gate of the House' (8 Feb 1715/6, <i>CJI(III)</i>, p.82).</p> <p>In substance repeated on 25–26 Sep 1721 (<i>CJI(III)</i>, p.254).</p>	<p>'Resolved, &c. That all Protections and written certificates of the Members of this House be declared void in law; and be forthwith withdrawn, and called in: and that none be granted for the future: and that, if any shall be granted by any Member, such Member shall be liable to the censure of the House: and that the privilege of Members for their menial servants be observed, according to law: and that if any menial servant shall be arrested, and detained, contrary to privilege, he shall, upon complaint thereof made, be discharged, by order from Mr. Speaker.</p> <p>'Ordered, That this be declared to be the Standing Order of the House' (7 Feb 1677, <i>CJE(IX)</i>, p.435).</p> <p>Repeated with additions—first instance:</p> <p>'Ordered, That this Order be published, by setting up the same in the lobby, at the House door, at Westminster Hall Gate, at the several courts in Westminster Hall, and at the Inns of Courts and Inns of Chancery, and at the Royal Exchange: and that the knights</p>

Orders, standing orders, rules, etc. of the Irish House of Commons	Commentary and English/British equivalent
	<p>of the shires do send copies thereof to the sheriffs of their respective counties; and the burgesses to their several boroughs.</p> <p>'Ordered, That such Members as are returned to have granted protections, and were absent this day, do give an account to the House of what protections have been granted by them, the next time they come to the House' (23 Jan 1690, <i>CJE</i>(IX), p.340).</p>
<p>Resolution</p>	<p>Catholic servants</p> <p>'Resolved, <i>nemine contradicente</i>, That no Papist be protected by any Member of this House as his menial servant' (12 Nov 1696, <i>CJI</i>(II), p.150).</p>
<p>Orders and resolution</p>	<p>Members acting in other capacity or <i>autre droit</i></p> <p>'Ordered, That no Member of this House you shall be sued as trustee, executor, administrator, guardian, or otherwise, in <i>autre droit</i>, shall have the privilege of this House, so that his person be not molested. <i>Ordered and declared</i>, That this to be the Rule and Order of the House' (3 Sep 1695, <i>CJI</i>(II), p.49)</p> <p>'Resolved, That it be a standing Order of this House, That no Member ... who shall be sued in <i>autre droit</i>, have the privilege of this House' (20 Jan 1703/4, <i>CJI</i>(II), p.391).</p> <p>'Ordered, That it be declared to be the standing order of this House, that no person, sued as a guardian, trustee, executor, or public officer, or in any <i>autre droit</i>, have the privilege of this House' (14 Mar 1704/5, <i>CJI</i>(II), p.451).</p> <p>Protection of lands and property</p> <p>'It is ordered, that the Speaker ... be desired to prepare an order for the consideration of the House, whereby it may be declared, that the sealing of leases of ejectment upon lands in the possession of any Members of this House, or their ministers, is a breach and violation of the privileges of parliament, and the parties so offending shall be accordingly proceeded against by the House' (6 June 1662, <i>CJI</i>(I), p.517).</p> <p>There are English precedents: 'Resolved, That the Privilege of this House shall not be allowed to any Members thereof, in cases wherein they are only trustees, a copy of the bill or declaration being first left with such trustee: and that the same be a standing order of this House' (2 Nov 1691, <i>CJE</i>(X), p.544). See also 23 Dec 1692 (<i>CJE</i>(X), p.762).</p> <p>'Resolved, That no Member of this House have any privilege, except for his person only, against any commoner, in any suit or proceedings in courts of law or equity, for any longer time than the house shall be actually sitting for the dispatch of business in parliament; and that the same be a standing order of the House' (17 Apl 1699, <i>CJE</i>(XII), p.648).</p> <p>See also pp.111ff above.</p>
<p>For financial privilege see Financial (supply and ways and means) procedures and privilege.</p>	
<p>Strangers</p>	
<p>Standing order</p> <p>Orders</p>	<p>Arrest and exclusion of strangers</p> <p>'Ordered, That the gallery door be locked every morning at the sitting of the House, and the key laid on the Table, and that the Serjeant-at-Arms to take into custody any person, not being a Member of this House who shall presume to come into the House during the sitting of the House, and that this be a standing Order of the House' (14 July 1711, <i>CJI</i>(II), p.697).</p> <p>'Ordered, <i>nemine contradicente</i>, That all such persons as shall presume hereafter to come into the House, or in the galleries, while the House or any committee of the whole House is sitting, be taken into custody, by the serjeant-at-arms and attending this House without farther order or warrant' (9 Dec 1713, <i>CJI</i>(II), p.758).</p> <p>Ordered, That the gallery door be locked every morning at the sitting of the House, and the key be laid on the Table, and that this be a standing Order of the House'. (18 Nov 1715 <i>CJI</i>(III), p.18)</p> <p>There are English precedents: 'Ordered, That the Serjeant at Arms do keep the gallery free from Strangers: and that the back-door be locked up, and the key brought and laid upon the Table' (29 Jan 1689, <i>CJE</i>(X), p.15); 'Ordered, That the Serjeant at Arms attending the House do, from time to time, take into his custody any stranger or strangers, that he shall see, or be informed of to be, in the House or gallery, while the House, or any committee of the whole House, is sitting' (2 Apl 1690, <i>CJE</i>(X), p.364); measures against strangers go back until at least the sixteenth century—see Porritts, <i>Unreformed House</i> (I), pp.576-77. On 11 Nov 1705 the English House made a standing order excluding strangers from the 'body of the House' and its galleries 'during the sitting of ant committees therein' (<i>CJE</i>(XV), p.26).</p>

Orders, standing orders, rules, etc. of the Irish House of Commons		Commentary and English/British equivalent
Catholics		
Order	'Ordered, That the Serjeant-at-Arms take into custody all papists that are, or shall presume to come into the galleries' (11 Dec 1713, <i>CJI</i> (II), p.764).	<p>'Ordered, That no Papist do presume to come into Westminster Hall, the Court of Requests, or lobby of this House, during the sitting of this parliament.</p> <p>'Ordered, That this Order be posted up at Westminster Hall Gate, and in the Lobby of this House.</p> <p>'Ordered, That the Serjeant at Arms attending this House do take into custody all such persons as shall offend against the said order' (10 Dec 1690, <i>CJE</i>(X), p.503).</p>
Witnesses		
Standing rule	<p>Reimbursement of costs</p> <p>'Resolved, That it be a standing Rule of this House, That every person summoned to appear as a witness in any private matter before this House, be allowed his reasonable charges by the party on whose behalf he shall be summoned' (22 Oct 1703, <i>CJI</i>(II), p.345).</p>	<p>No equivalent English standing order has been found but there are specific examples of reimbursement such as—on 29 Nov 1661, 'for the Hearing of the Case ... That such witnesses, as the parties of either side shall think fit to make use of at the said hearing, do, and are hereby required to give their personal attendance, at this House, upon the same day; the parties so summoning them allowing their reasonable charges, if it be required, for their attendance' (<i>CJE</i>(VIII), p.322).</p>
Standing rule	<p>Protection</p> <p>'Ordered, That it be declared a standing Rule of the House that all persons attending committees by order of the House be protected during their attendance' (23 Feb 1703/4, <i>CJI</i>(II), p.432).</p>	<p>'Resolved, &c. That this House does <i>Declare</i>, That all Persons that are summoned to attend any committee of this House, as witnesses, in any cause depending before them, ought to have the privilege of parliament; and to be freed from arrests in coming, staying, and returning from the said committee' (25 Nov 1647, <i>CJE</i>(V), p.369).</p> <p>The protection of a witness summoned to attend a committee is also implicit in a number of Journal entries of the Westminster Commons: 16 July 1663 (<i>CJE</i>(VIII), p.525), 14 Nov 1667 (<i>CJE</i>(IX), p.20), 2 Nov 1675 (<i>CJE</i>(IX), p.366), 2 May 1678 (<i>CJE</i>(IX), p.472), 21 Dec 1698 (<i>CJE</i>(XII), p.364), and 23 Mar 1699 (<i>CJE</i>(XII), p.610).</p>

6.13.2 Sessional orders and rules of the Irish House of Commons (selected)

Sessional orders and rules of the Irish House of Commons (selected) ³⁰⁰		Westminster equivalent and commentary
Bills, public		
	Times at which to be read	
Order	'Ordered, That the Order of this House, whereby no public bill is to be read, but between the hours of eleven and one of the clock, do stand revived' (13 Aug 1697, <i>CJI</i> (II), p.167).	See Appendix 6.13.1 on: Petitions; Time deadline for presentation of motions. The need to revive the order indicates the evolving status and permanency of orders.
Bills, petitions for private heads		
Order	'Ordered, that no petition for private bills be received for a fortnight from this time' (22 Oct 1692, <i>CJI</i> (II), p.21).	
Order	'Ordered, That during this session no motion be made in any private business after twelve o'clock' (15 Nov 1703, <i>CJI</i> (II), p.369).	See Appendix 6.13.1 for items such as motions subject to time constraints but apparently not restricted to the session in which the order was made. Similar English orders: 10 o'clock—24 Nov 1691 10 o'clock—4 Feb 1692 11 o'clock—16 Feb 1692 11 o'clock—16 Feb 1699
Order	'Ordered, That no heads of bills be brought into this House after this day, except those already ordered, until the House have gone through the heads of bills already brought in' (8 Nov 1703, <i>CJI</i> (II), p.359).	-
Elections		
	No case to be heard at bar	
Resolution	'Resolved, that no election be heard at the bar of this House this session of parliament' (19 Feb 1727/8, <i>CJI</i> (III), p.545).	See 1727 and 1729 sessional resolutions at end of table.
Fees, clerks', etc.		
	Payment of fees	
Rule	'Ordered, That the [clerks' and other officers'] fees be entered in the Journal of this House, as the settled standing fees of the clerks of this House and the said doorkeepers' (22 Oct 1695, <i>CJI</i> (II), p.104).	See Appendix 6.5 and pp.43ff above.
Order	'Ordered, That the Members of this House, at the next call of the House, do pay unto the clerks of this House the accustomed fee settled by order in the last parliament' (29 Sep 1703, <i>CJI</i> (II), p.321).	
Resolutions	The House agreed the following resolutions from a committee: 'Resolved, That it is the opinion of the committee that all persons having matters to be heard at the bar of this House or in any committee, by order of this House, do pay to the respective clerks and officers of this House such just fees as are severally due to them by the Regulation of the Fees of this House. 'Resolved, That it is the opinion of this committee that upon failure or neglect of payment of such fees, and upon application made by the said clerks and officers to the Speaker, according to former precedents, the Speaker may issue his warrant from time to time, to attach the bodies of the persons so failing or neglecting, and secure	

³⁰⁰ It is not always clear whether these orders applied to the session, parliament or longer; the list here sets out those that were likely to apply to only the session in which they were made; orders likely to have a longer duration are set out in Appendix 6.13.1.

Sessional orders and rules of the Irish House of Commons (selected) ³⁰⁰		Westminster equivalent and commentary
	<p>them until he or they be discharged by order of the House.</p> <p>Precedents: 10 <i>December</i> 1661, 13 <i>December</i> 1662 (16 Nov 1703, <i>CJI</i>(II), p.370).</p>	
Order	<p>'<i>Ordered</i>, That the order of the House made in the last session relating to the clerks and officers being paid there are just fees by all persons having matters heard at the bar of the House or any committee by order of this House be revived; and that Mr <i>Speaker</i>, on application to him, to issue his warrant, from time to time to attach such person or persons who shall fail or neglect to pay such just fees until they be discharged by order of this House' (21 Mar 1704/5, <i>CJI</i>(II), p.460).</p> <p>[Order revived] (11 Aug 1707, <i>CJI</i>(II), p.529)</p>	
Order	<p>'<i>Ordered</i>, That the order of the last session of parliament that the clerks and officers of this House be paid their just fees by all persons having matters heard the bar of the House, or any committee by order of the House, be revived, and that Mr <i>Speaker</i>, on application to him, do issue his warrant from time to time to attach such person or persons, who shall fail or neglect to pay such just fees, due the last or this session of parliament, until they be discharged by order of the House' (24 June 1710, <i>CJI</i>(II), p.670).</p>	
Order	<p>'<i>Ordered</i>, That the orders of the former parliament relating to the clerks and officers of this House being paid their just fees by all persons having matters heard the bar of this House, or at any committee by order of the House, be revived, and that Mr <i>Speaker</i>, on application to him, do issue his warrant from time to time, to attach such person or persons, who shall fail or neglect to pay such just fees, due until they be discharged by order of the House' (9 Feb 1715/6, <i>CJI</i>(III), p.83).</p>	
Order	<p>'<i>Ordered</i>, That the order of the House of 9 Feb 1715/6 relating to the clerks and officers being paid just fees be revived and that the <i>Speaker</i>, on application to him, do issue his warrant from time to time, to attach such person or persons, who shall fail or neglect to pay such just fees, due until they be discharged by order of the House' (24 Dec 1723, <i>CJI</i>(III), p.372).</p>	
Financial matters		
Resolution	<p>Moratorium on raising money for private use</p> <p>'<i>Resolved</i>, That this House will not enter into the consideration of giving, or raising any more money this session for any private use, except what relates to Sir <i>Humphrey Jervis</i>, Dr <i>Walker's</i> family, Captain <i>Prendergast</i>, and Mrs <i>Margaret Hamilton</i>, widow of Col <i>Gustavus Hamilton</i>' (22 September 1697, <i>CJI</i>(II), p.207).</p>	
Resolution	<p>No more petitions for money once heads of supply bill sent to lords justices</p> <p>'<i>Resolved</i>, That no more petitions for money be received this session of parliament' (22 Dec 1715, <i>CJI</i>(III), p.59).</p> <p>'<i>Resolved</i>, That no more petitions or applications for money be received this session of parliament' (13 Jan 1721, <i>CJI</i>(III), p.301).</p>	
Motions		
Standing rule	<p>Time deadline for presentation of motions and reports</p> <p><i>Ordered</i>, That no report or new motion be made this session after one of the clock, and that this be the standing Rule of this House' (18 Nov 1695, <i>CJI</i>(II), p.116).</p>	<p>Equivalent made in English House of Commons on 29 Apl 1679: '<i>ordered</i>, That the Standing Order of the House, That no new motion be made after twelve of the clock, be strictly and constantly kept and observed' (<i>CJE</i>(IX), p.606).</p>

Sessional orders and rules of the Irish House of Commons (selected) ³⁰⁰		Westminster equivalent and commentary
Petitions		
Order	Time limit on presentation of petitions ' <i>Ordered upon question</i> , that for the dispatch of public bills under consideration of this House, no petitions be read after ten of the clock in the morning, without the special leave of the House first obtained' (3 Feb 1665/6, <i>CJI(I)</i> , p.700).	No direct equivalent has been found but see above: Petitions; Time deadline for presentation of motions.
Order	No petitions for abatements of rents to be accepted ' <i>Ordered</i> that no petitions for abating of rents shall be hereafter received into this House, until this House shall give further Order therein' (11 July 1644, <i>CJI(I)</i> , p.332).	
Order	Petitions to be put on the establishment ' <i>Ordered</i> , That no more petitions for recommendations to the government, to put on the establishment the half-pay, be received during this session of parliament' (3 June 1709, <i>CJI(II)</i> , p.599).	No direct Westminster equivalent has been found.
Private business		
Order	Limitation on private business ' <i>Ordered</i> upon question, that after this day no private business shall be heard in this House without special licence first granted, until the bills and other public business now depending, be dispatched' (22 Feb 1665/6, <i>CJI(I)</i> , p.709).	There is a Westminster precedent from 1648: 'The House then <i>Ordered</i> , That no private business shall be heard or moved in the House for eight days, but only such things as may relate to the settling of these kingdoms' ('Proceedings in parliament: Apl 1st - May 1st 1648', <i>Historical Collections of Private Passages of State</i> , vol. 7: 1647–48 (1721), pp.1045-74).
Reports		
Standing rule	Time limit on presentation of reports ' <i>Ordered</i> , That no report or new Motion be made this session after one of the clock, and that this be the standing Rule of the House' (18 Nov 1695, <i>CJI(II)</i> , p.116).	No direct equivalent has been found but see above: Petitions; Time deadline for presentation of motions.
1727 sessional resolutions		
' <i>Resolved</i> , that no peer of this realm has any right to give his vote in the election in the Members to serve in parliament.		See Appendix 6.13.1
' <i>Resolved</i> , that where the House shall judge in the petition touching elections to be frivolous and vexatious, the House will order satisfaction to be made to the person petitioned against.		
' <i>Resolved</i> , that in case it shall appear, any person has procured himself to be elected or returned as a Member of this House, or endeavoured so to be, by bribery or any other corrupt practice, this House will proceed with the utmost severity against such person.		
' <i>Resolved</i> , that if it shall appear that any person has been tampering with any witness in respect of his evidence to be given to this House, or any committee thereof, or directly or indirectly has endeavoured to deter or hinder any person from appearing or giving evidence, the same is declared to be a high crime and misdemeanour, and this House will proceed with the utmost severity against such offender.		
' <i>Resolved</i> , that if it shall appear that any person has given false evidence in any case before the House, or any committee thereof, this House will proceed with the utmost severity against such offender.		
' <i>Resolved</i> , that it is a high infringement on the liberties and privileges of the Commons for any lord of parliament to concern himself in the election of Members to serve for the Commons in parliament' (29 Nov 1727, <i>CJI(III)</i> , p.465).		

Sessional orders and rules of the Irish House of Commons (selected) ³⁰⁰	Westminster equivalent and commentary
1729 sessional resolutions	
'Resolved, that no peer of this realm has any right to give his vote in the election in the Members to serve in parliament.	
'Resolved, that were the House shall judge in the petition touching elections to be frivolous and vexatious, the House will order satisfaction to be made to the person petitioned against.	
'Resolved, that in case it shall appear, any person has procured himself to be elected or returned as a Member of this House, or endeavoured so to be, by bribery or any other corrupt practice, this House will proceed with the utmost severity against such person.	
'Resolved, that if it shall appear that any person has been tampering with any witness in respect of his evidence to be given to this House, or any committee thereof, or directly or indirectly has endeavoured to deter or hinder any person from appearing or giving evidence, the same is declared to be a high crime and misdemeanour, and this House will proceed with the utmost severity against such offender.	
'Resolved, that if it shall appear that any person has given false evidence in any case before the House, or any committee thereof, this House will proceed with the utmost severity against such offender.	
'Resolved, that it is a high infringement on the liberties and privileges of the Commons for any lord of parliament to concern himself in the election of Members to serve for the Commons in parliament' (24 Sep 1729, <i>CJ(III)</i> , p.582)	
Supplementary	
'Ordered, that the several streets leading to the Parliament House, be kept in good order and clean, and that the constables of the city of Dublin see that they be free and open, and that no obstruction be made by cars, drays, carts or otherwise, to hinder the passage of the Members to and from the Parliament House.	
'Ordered, that the said order be sent to the Lord Mayor of the city of Dublin, and that he do see the same put in execution.	
'Ordered, that the constables in waiting do take care there be no gaming or other disorders in the passages leading to the House, during the sitting of parliament, and that there be no annoyance by chairmen, footmen or otherwise, therein, or thereabouts' (24 Sep 1729, <i>CJ(III)</i> , p.582).	

6.13.3 Examination of precedents 1692 to 1730

Irish House of Commons: examination of precedents	
How to obtain papers from the Revenue	
12 Oct 1692	Issue: the House appointed a committee (first named: John Poulteney) to search precedents on 'how the Committee of Grievances may come at records, accounts and papers in the hands of any [of] their majesties officers of the Revenue, and others' (<i>CJII</i>), p.15).
14 Oct 1692	Findings: James Sloane reported the following precedents, 17 Apr 1662 (Irish House of Commons), 8 Oct 1690 (English House of Commons) and 13 Oct 1690 (English House of Commons); the House asked the lord lieutenant for papers and they were supplied. There is a copy of report in the Journals (<i>CJII</i>), p.16).
Swearing clerks	
10 Oct 1692	Issue: the House appointed a committee (all barristers and first named: John Weaver) to search precedents on 'what manner, the clerks attending this House and their Assistant ought to be sworn' (<i>CJII</i>), p.12).
14 Oct 1692	Findings: Weaver reported precedents from Irish Journals: 25 Nov 1614, 18 Apr 1615, 17 July 1634, 18 July 1634 and information on practice from clerk of crown and chancery under an English Act (<i>CJII</i>), pp.16-17).
Fees for inserting 'private' clauses in public bills	
15 Nov 1697	Issue: the House appointed a committee (first named: Col Eyre) to examine Journals on the fees paid to the clerks and Speaker when private persons inserted clauses in public bills (<i>CJII</i>), p.216).
18 Nov 1697	Findings: Edward Singleton reported one precedent from Journals: 21 May 1662. Precedent used to require fees (<i>CJII</i>), p.219).
Refusal to pay fees due to clerks and door-keepers	
19 Nov 1698	Issue: the House appointed a committee (first named: Stephen Ludlow) to search the Journals, to see what methods have been used for getting the fees due to the clerks and door-keepers that attend the committees from persons that refuse to pay (<i>CJII</i>), p.271).
24 Nov 1698	Findings: John Weaver Sr. reported precedents from Journals: 10 Dec 1661, 13 Dec 1662 and 3 Nov 1692 (<i>CJII</i>), p.275).
Remuneration of clerks and officers³⁰¹	
2,6,9 Mar 1704/5	Issue: the clerks and other officers of the House of Commons petition for payment for services (<i>CJII</i>), pp.438, 442, 444).
12 Mar 1704/5	Findings: Stephen Ludlow presented report which (rather than a list of precedents) drew on petitioners' submission and set out history of clerks attempts to obtain payment (<i>CJII</i>), p.448). See also Fees, clerks', etc. in Appendix 6.13.1 for precedents cited on 16 Nov 1703.
House of Lords: bill procedures	
12 Oct 1692	Issue: the House having been informed that bills that started in the Lords and sent to the Commons engrossed 'have many times been detained here, and not returned to the Lords House, but presented by the Speaker for the royal assent', appointed a committee (first named: Henry Boyle) 'to search precedents, how engrossed bills ... ought to be returned and sent up by this House' (<i>CJII</i>), p.14).
13 Oct 1692	Issue: Boyle reported that there were several precedents but that they were inconsistent with some showing the engrossed bills returned to the Lords and other retained by the Commons and presented by the Speaker for royal assent: 13 Oct 1614, 10 Dec 1634 and 13 Dec 1665 (<i>CJII</i>), p.15). Outcome: one bill in the session that eventually was given royal assent—for encouragement of Protestant strangers to settle in the kingdom of Ireland—does not appear to have been returned to the Lords and may have been presented by the Speaker. Ultimately (and silently) Westminster practice was adopted: all bills were returned except supply bills which the Speaker presented.
8 June 1716	Issue: the House appointed a committee (first named: Mr St. George (more than one)) to inspect the Journals to search for precedents in relation to the delivery of bills sent up by the Commons at the bar of the House of Lords (<i>CJII</i>), p.104). Findings: no entry for report of the committee.
House of Lords: arrangements at conferences	
15 Oct 1695	Issue: the House appointed a committee (first named: Alan Brodrick (Solicitor General); second: William Molyneux) to search the Journals on Lords giving evidence to the Commons on oath; on 16 Oct terms of reference were expanded to include how Members should 'manage themselves on a free

³⁰¹ This item is included as an example of limitation of precedents. In light of officer's use of precedents in 1690s (listed in table) it is telling that they do not adopt a similar approach when it came to their own remuneration.

Irish House of Commons: examination of precedents	
	conference with the Lords'; 17 Oct Commons asks Lords if they can inspect their Journals; 18 Oct Lords Journals inspected (<i>CJ/II</i>), p.91).
20 Nov 1695	<p>Findings: William Molyneux reported and the Commons agreed the committee's findings and that they should be entered in <i>CJ</i>:</p> <ol style="list-style-type: none"> 1. It appeared from the Journals that 'great Inconveniences have happened to the public affairs of this nation, by the Commons insisting on the right of sitting covered in conferences with the Lords, an absolute rupture between the two Houses has ensued thereon, and followed with a dissolution of the parliament' after the 1641 rebellion. 'For avoiding the like mischiefs and inconveniences the future, and that the great business of the nation may not have any time thereafter suffered by adhering to the manner sitting covered, the Commons in this parliament assembled to think it requisite to settle this matter, and the precedent therein to be observed thereafter'. 2. 'In regard the Commons of England, in conferences with the Lords, do stand uncovered, we conceive it not necessary or convenient to insist upon more in this matter than the Commons of England'. 3. 'The two Houses ... are now employed upon settling the nation after a most unnatural rebellion [and] upon a lasting Protestant foundation ... and a rupture between the two Houses may prove at this time of the worst consequence ... we think it requisite to decline what formerly has been insisted upon ... and to leave this as a memorial to future generations, by ordering it to be entered in our Journals as a precedent settled and agreed by this House' (<i>CJ/II</i>), p.118).
House of Lords: witnesses	
21 Oct 1695	Issue: the House appointed a committee (first named: Joseph Williamson) to search for precedents that the judges can administer oaths to witnesses before the House of Commons (<i>CJ/II</i>), p.102). (The House of Lords had refused to allow the judges to attend for this purpose in respect of the articles of impeachment of Lord Chancellor Porter.)
22 Oct 1695	Findings: Alan Brodrick (Solicitor General) reported that it was no infringement of the judicature of the Lords and that it was 'parliamentary of the House of Commons to receive evidence of witnesses who have been sworn, of which there are several precedents', which are not cited in the Journal entry (<i>CJ/II</i>), p.103).
12 July 1707	Issue: the House appointed a committee (first named: Thomas Keighley) to examine the Journals in order to respond to a message from the House of Lords that an MP be examined as a witness in the House of Lords (<i>CJ/II</i>), p.497).
14 July 1707	Findings and process: William Conolly reported that they had found a 1661 precedent which he read in his place and delivered to the Table where it was read again. The House then sent a message to the Lords that the Commons would not give leave for the MP to be examined as a witness 'till they are informed by your lordships, in what cause or matter he is to be examined'. The Lords then sent a messenger repeating the request but with the details of the case (the wording appears to draw from the 1661 precedent). The Member said that he was willing to be examined and the Lords were told by the Speaker that the House of Commons had given leave (<i>CJ/II</i>), pp.498-99).
31 July 1711	Issue: the Commons requested Lords give leave for Mr Justice Coote to appear before a Commons committee to explain what he knew relating to the proceedings on the examinations of Dominick Langton against various Protestant gentleman of co. Westmeath; 2 Aug Lords refused as they needed Coote to be in 'constant attendance in the House of Lords'. In response the Commons appointed a committee (first named: William Conolly) to examine the Journals of the both the Commons and Lords for precedents relating to the answer of the House of Lords (<i>CJ/II</i>), pp.708-09).
6 Nov 1711	Findings and outcome: Oliver St. George reported that the committee had found precedents for judges appearing before Commons committees. The Journal gives the report he read. It cited precedents (from Journals of both Houses) from 1707, in which Coote had given evidence at the bar of the Commons (from the Lords Journals) from 1704/5 and 1707, and the Commons discovered that their request on 31 July had precipitated a decision to investigate the Langton case and thus preclude Coote's attendance in the Commons. The report argued that there was no precedent to show that the belated decision of the Lords should be an obstruction to meeting the request of the Commons. The Commons asked for a conference. On 7 Nov St. George reported the case prepared for the conference, at which the Commons would assert 'its undoubted right to require any judge, or assistant of [their] Lordships House to appear before them, to give information in any matter under their enquiry'. They Commons would tell the Lords that their refusal was 'very unparliamentary and without precedent, and which might tend to the interruption and defeating of any future enquiry before their House'. The session ended before a further conference could take place (<i>CJ/II</i>), pp.731-34).
2 Dec 1715	<p>Issue: the House appointed a committee (first named: Samuel Dopping) to inspect Journals and search for precedents relating to judges giving testimony before the Commons (<i>CJ/III</i>), p.36). (The Lords had already agreed that Lord Chief Justice Forester could give evidence. This search was for the procedures when he appeared.)</p> <p>Findings: no entry for report of the committee found.</p>
How Members can resign	
1 Mar 1704/5	Issue: the House appointed a committee (first named: William Conolly) to search precedents where Members have withdrawn themselves from the service of the House (<i>CJ/II</i>), p.437).
20 Mar 1704/5	Findings: Conolly reported precedents from the Journals where Members had withdrawn: 10 Dec 1634, 6 Sep 1695, 14 Feb 1704, 28 Feb 1704; but committee came to opinion 'that the excuse in of Members at their own request, or upon their letters, from the service of this House, and thereupon

Irish House of Commons: examination of precedents

issuing out new writs to re-elect other Members to serve in their places, is of dangerous consequence, and tends to the subversion of the constitution of parliament' and on the following day the House '*resolved, nemine contradicente*, That no new writs for electing Members of parliament, in the places of Members excusing themselves from the service of this House, do issue at the desire of such Members, notwithstanding any former precedent to the contrary' (CJI(II), p.459; and see pp.130ff above).

6.14 Procedures of the House of Commons

6.14.1 The address

- a) A motion for an address was made.³⁰²
- b) When the House resolved to make an address, a committee was appointed to draw it up and, in the case of the response to the speech from the throne, a separate committee of privy counsellors was appointed and ordered 'to acquaint [the lord lieutenant] with the vote ... for an address of thanks'.³⁰³
- c) When the committee drafting the address had finished its work, a Member—usually the chairman of the committee—reported and read the address in his place.³⁰⁴
- d) The address was then delivered 'in at the Table' and read a second time—if necessary, at this point it could be recommitted to committee.³⁰⁵
- e) The address was then considered paragraph by paragraph, at which point it could be amended or recommitted.³⁰⁶
- f) The address was given a third reading.³⁰⁷
- g) The House decided who would present it—the options were the Speaker and House or privy counsellors.³⁰⁸
- h) The House ordered Members who were privy counsellors to attend the lord lieutenant asking when it would be convenient to present the address.³⁰⁹
- i) A privy counsellor reported back the appointed time to the House and the House ordered attendance at the specified time.³¹⁰
- j) At the appointed time it was presented.
- k) Those making the presentation would report back and convey the lord lieutenant's formulaic words of acceptance or undertaking to send on to the monarch.³¹¹

³⁰² See *CJI*(II), p.248 for an example where the question was put to a division and negatived.

³⁰³ *CJI*(II), p.11

³⁰⁴ *CJI*(II), p.13

³⁰⁵ See *CJI*(II), pp.95, 136.

³⁰⁶ *CJI*(II), p.13; in the case in 1692 the address was recommitted and reconsidered and agreed the following day (p.14). the procedure for amending was recorded on 14 July 1711: 'an amendment being proposed to the fifth paragraph, and the Question being put, that the said paragraph do stand part of the Address without any amendment,' the House divided with the yeas 84; noes 39; it was carried in the affirmative (p.697).

³⁰⁷ *CJI* 13 Dec 1695 recorded that after an address to king had been amended, 'then the address was entirely read by Mr Speaker, with the [amended] words therein, and agreed to the House' (p. 143). The entry may record an exception to the normal process, which—by the 1720s—was for the clerk to read it. Coghill recorded that a misreading by the Clerk of an address to the king provoked a sarcastic intervention from St. John Brodrick; *Coghill Letters*, no 17 (To Edward Southwell, 9 Oct 1725).

³⁰⁸ In one instance on 12 Dec 1695 the House ordered that 'Mr Vanhomrigh, and such Members of the House as please to accompany him, do attend his excellency the lord deputy with the ... address, and humbly present the same to his lordship as the address of this House' (*CJI*(II), p.142). It therefore appears that MPs who were not privy councillors presented the address; Vanhomrigh is not listed as a privy councillor.

³⁰⁹ *CJI*(II), p.14

³¹⁰ *CJI*(II), p.15

6.14.2 Procedure in the House of Commons on receipt of a message from the Lords requesting a conference

Stage	Procedure ³¹²
1	Message delivered from Lords by two justices desiring a conference at a specific location about a specified subject.
2	Messengers withdrew and waited.
3	House considered, and usually agreed.
4	Messengers called in and Speaker told them that the House agreed.
5	Select committee appointed to manage the conference.
6	Select committee attended conference; the Commons attended in a ratio of 2:1 to the Lords; and the conference took place in the Conference Room (or sometimes, the Robe Room). ³¹³
7	Select committee reported from the conference; if Lords provided a paper, it is read at the Table and recorded in Journals.
8	House decided its response.
9	If House wanted a further conference, it would send a Member to acquaint the Lords of the request and the subject of the conference.
10	Member reports back Lords response which will be usually to agree to meet.
11	House would appoint a select committee to manage the conference with an instruction on the House's view of the matter; if necessary it might prepare a response which was put to the House for endorsement.
12	Select committee attended the conference.
13	Select committee reported back from the conference to the House of Commons.

³¹¹ *CJI(II)*, p.14 (16 Oct 1692); in earlier parliaments the address was read to the lord lieutenant and his words were usually to effect that he was pleased to receive the address and would attend to its contents, or in case of an address to the monarch, convey it on. Not all responses from the lord lieutenant were formulaic: 11 Oct 1695 the lord deputy was recorded as saying: 'I know something of this business myself, and will take care to represent it fully, and lay it before His Majesty' (p.86; 11 Oct 1695). Later entries tended to follow the formula.

³¹² Based on *CJI(II)*, pp.134, 270, 335, 621

³¹³ *CJI(II)*, p.226

6.14.3 Questions put in the Irish House of Commons on heads of a bill

Questions put in the Irish House of Commons on heads of a bill	Bill process as applied at Westminster
I. (IA) That leave be given to bring in a heads of bill to/for ... and that ... do prepare and bring in the same <i>or</i> (IB) That ... [be appointed a committee to] do prepare and bring heads of a bill to ...; [That they meet ... have power to adjourn from time to time, and place to place, to send for papers persons and records, as they shall think fit,] and report their proceedings to the House, [and all Members that come are to have voices]	
II. That the heads of a bill to/for ... be received and read	
III. That the heads for ... be committed to [a committee of the whole House] on [named day].	
IV. That the Speaker leave the Chair <i>[Heads considered in committee during which questions would have been put and determined ending with x report and the Speaker resume the Chair.]</i>	
V. That ... the report [from the committee] ... be made on [named day].	
VI. <i>On named day or later order of the day the report was made by order and question put</i> That the heads be read	
VII. That the heads be again read	
VIII. That the House agree with the report of the committee of the whole House on ... <i>[If amended, That the House agree with the amendments]</i> The heads may have been read again	
IX. That ... carry the heads of a bill ... to the lord lieutenant and humbly desire his lordship that the same may be put in a form and transmitted in England <i>[after 1707, Great Britain]</i>	
	1. That the bill be received (unless from Lords)
	2. That the bill be read a first time
	3. That the bill be read second time on [named day]
	4. That the bill be read a second time— <i>main debate on principles and this is the point at which counsel was heard</i>
	5. That the bill be committed ³¹⁴
	6. That the House will resolve itself into a committee on a named day
	7. That the Speaker leave the Chair
	8. <i>Amendments at committee stage</i>
	9. That the amendments be read a second time
	10. That the House agree with the committee in the amendments
	11. That the bill be engrossed (not Lords bills)
	12. That the bill be read a third time on a [named day]
	13. That the bill be read a third time
	14. That the bill do pass

³¹⁴ Debate in committee of the whole House provided an opportunity for all MPs to speak and debate. Committee of the whole House could be speedier than sending a bill to select committee which would have required appointment of members, committee to meet and then to report. Committee of the whole House could be carried out as a brief interruption of a sitting of the House or in sequence with other committees of the whole House.

The questions and stages in more detail

The process started with a motion that either a Member (or Members)³¹⁵ have leave to bring in heads of a bill or an order for the preparation and bringing of heads of a bill (see pp.195ff above).³¹⁶ (If heads were presented without leave or an order, the procedure was for leave to be given to withdraw it and start again.)³¹⁷ The formulation at (IA) in the table in this Appendix was the usual form and variant (IB), when employed, became after the 1690s an instruct to draft rather than to investigate and draft. The process of investigation of the allegations in petitions became distinct with a report to the House on the validity of the allegations in the petition and then, if the representations were supported, the House decided what action to take. In the case of the heads of a bill for the better regulating the Dublin workhouse the House ordered the drafting committee 'to view the workhouse ... before they do prepare the ... heads'.³¹⁸

The instruction to the drafters of the heads was an order of the House and they then presented the heads. Presented according to order the heads lay on the Table and were in the possession of the House.³¹⁹ On presentation, it appears that there were two processes and questions, though—from the Journal entries—they were often taken together. First, the heads were read—increasingly from 1697, on presentation a date was set for reading.³²⁰ The question would be as at II in the table in this Appendix.

Second, the heads of a bill were committed to a committee; in nearly all cases for both public and private heads this was a committee of the whole House on a set day.³²¹ The question would be as at III in the table in this Appendix. On some occasions, a bill might be committed to a select committee which was at work in a related field.³²² In committing the heads the House could, if necessary, give the committee instructions on carrying out its responsibilities.³²³ *That the same committee has leave to receive a clause that ...*³²⁴ or, more generally, *empowered to receive a clause or clauses, to be inserted in the ... heads of a bill.*³²⁵

³¹⁵ For example: on 7 Aug 1697 leave was 'given to bring in heads of bill to prevent illegal and undue charging of money on the subjects by grand juries and that it be recommended to Sir *Richard Bulkely* to prepare and bring in the same' (*CJI*(II), p.161); and on 30 Sep 1703 the House 'ordered, That leave be given to bring in heads of a bill for securing the liberty of the subject; and that Mr *Upton*, Mr *Chancellor of the Exchequer* and Mr *Bernard* do prepare and bring in the same' (p.324).

³¹⁶ The instructed could be an MP, an MP who was an office holder such as the solicitor general, a named group of MPs or a committee. The drafting committee could be a committee of the whole house, though this could be cumbersome. In Sep 1695 having instructed a committee of the whole House to draft a law on recovery of small debts, a month later the House appointed a select committee to complete the task (see *CJI*(II), pp.51, 76).

³¹⁷ *CJI*(II), p.458

³¹⁸ *CJI*(III), p.434; the initiative for action was a report from a select committee appointed to inspect the state and management of the Dublin workhouse, which found serious shortcomings (p.cccxxiii).

³¹⁹ *CJI*(II), p.362

³²⁰ For examples see *CJI*(II), pp.168, 172, 174-78; the entries for 19 Aug 1697 include instances where heads were read more than once and in one case where it appears that detailed consideration of heads for the preventing of butchers being graziers was carried out by the House rather than in committee (p.176; 25 Aug 1697). For an example of heads rejected see (II), p.207.

³²¹ For an example of a division on the question see *CJI*(II), p.244. The heads of a bill for making a canal from Knockbridge to Fathom, co. Down may indicate why a committee of the whole House was preferred. The drafters of the heads resolved 'That it is the opinion of this committee that if the said work were considered in a committee of the whole House that such easy methods might be proposed for doing thereof as would induce this honourable House to promote the same'. The implication is that a committee of the whole House brought not only greater expertise but wider support. In this case the House rejected the committee's resolution and committed the bill back to the drafting committee and it did not re-emerge.

³²² The most frequent examples, were from committees examining the need for new laws or laws that needed to be renewed. These committees reported on what legislation was needed and the House then instructed them to draft heads (see *CJI*(II), p.73).

³²³ For example, on 22 July 1707 the House instructed a committee of the whole House to consolidate three heads of bills (*CJI*(II), p.503).

³²⁴ For example, on 17 Feb 1704/5, House ordered an instruction to the committee considering the heads of a bill for registering Popish clergy to insert a clause to explain and amend an act to prevent papists being solicitors (*CJI*(II), p.428).

³²⁵ Wording taken from *CJI*(II), p.451 (13 Mar 1704/5); from this time the power is given frequently.

The implication of these directions was that without them the drafters would have to keep within the scope heads.³²⁶

In most cases the Member who had led on drafting the heads chaired and reported from the committee. The process of scrutiny worked by widening the group that examined the draft legislation.

As the House had (usually) ordered the committee of the whole House to consider the heads, there was no question put to the House do resolve itself into committee. Instead the question put was: *That the Speaker leave the Chair*. There are a few divisions on this question: in one case because the House wanted to consider other business and in another apparently to kill off a heads for preventing the abuses in the practice of physic which was opposed by vested interests.³²⁷

Within committee procedure several questions would be put including who would chair, making of amendments, that chairman should leave the Chair,³²⁸ and reporting the outcome of the committee's deliberations. Those speaking in debate were expected to speak to 'to each paragraph singly and in order, [not ramble] from one to another'.³²⁹

At committee stage the heads of a bill were considered paragraph by paragraph and, on completion of consideration, the chairman (or sometimes in the 1690s, the Speaker)³³⁰ reported he was ready to report and a day set for report.³³¹ The question would be *That the report of the committee ... be read on*

As with the presentation of the heads, the committee report on the heads had three elements that were often elided. First, heads of a bill were reported, according to order, to the House by usually the chairman of the committee. He reported that the committee had gone through the heads of the bill with, if necessary, some amendments, which he delivered in at the Table.

The second stage consisted of consideration of any amendments reported by the committee, the making of amendments by the House itself, if any, and a reading of heads, as amended. This was the settled order of consideration set down by the House in Feb 1723/4.³³²

Third, the House had several options, all of which could be debated:

—agree the heads (as amended);³³³ The question was put That the House do agree with the committee in the resolution

³²⁶ For example, on 1 Oct 1717 the solicitor general presented heads for 'the better amendment of the pavements in the city of Dublin, and for removing encroachments and nuisances that are or shall be erected thereon' which the House committed to a committee of the whole House and empowered it 'to receive a clause or clauses' (CJ(III), p.142). When the heads were reported by the committee on 9 Oct the title had been enlarged to 'the better amendment of the pavement, and more effectually cleansing of the streets of the city of Dublin, and removing encroachments and nuisances that are or shall be erected therein, and for preventing mischiefs occasioned by drivers of carts, drays and cars riding thereon, and for regulating the selling of hay in the city of Dublin, and liberties thereunto adjoining' (p.150). The implication is that there was a general debate on 1 Oct on Dublin streets and that as a result the heads were expanded. In the face of constraints on the legislative process expanding the scope of bills though tacking was useful.

³²⁷ CJ(II), p.248(III), p.339

³²⁸ For a division on the question see BL, Add. 47,028, f.154 (Charles Dering to Lord Perceval, 1 June 1716).

³²⁹ BL, Add. 47,029, f.74 (Philip Perceval to Lord Perceval, 16 Oct 1721)

³³⁰ For example, see CJ(II), p.64 (17 Sep 1695): 'Ordered, That the Report made to this House on Saturday last by Sir Francis Blundell, for preparing heads of our bill for prevention of robberies, etc. be reported by Mr Speaker to this House this day seven-night'; in the event Blundell reported the heads himself (II)p.85 (10 Oct)).

³³¹ Setting a date, rather than taking the report forthwith, became routine from 1697. A committee could report immediately, if a recess was imminent—see for example (CJ(II), p.210)—or if the heads were of political significance such as the national bank in Dec 1721 (III, p.289.).

³³² CJ(I), p.615 (10 Feb 1662/3) shows the procedure in use at beginning of the 1661 Parliament. 10 Feb 1723/4 House made a standing order: 'Ordered, *nemine contradicente*, that all heads of bill, which pass through a committee of the whole House, shall receive a reading after the report made, and before the same be made to the government, in order to be transmitted in due form into Great Britain' ((III), p.388); see (III), p.432 for an example. It is not clear whether the resolution of Feb 1723/4 was part of a process of codification or in response to a problem. The latter seems possible as earlier in the month the House had set out its expectations when copies of heads were reported (p.382). A requirement for a reading at the end of the report and before the heads went to the lord lieutenant was designed to ensure that everyone was clear what had been agreed and gave consent. One possible candidate for muddle was the bill on hempen and flaxen manufactures, the heads of which had been amended on report (p.359).

—amend the heads itself;³³⁴ The usual procedure was to hear counsel early in the heads process—either during the drafting process or during the committee stage—but on occasion he was heard at report stage and amendments could follow.³³⁵

—recommit the heads with, if necessary, an instruction to the committee;³³⁶ or

—rejection.³³⁷

If the heads of the bill were agreed, the House would usually order the chairman of the committee, on a question, attend the lord lieutenant, and desire him that the heads be put into form, and transmitted into England, according to Poynings' Law.³³⁸ Where the House considered heads to be of importance, they could be presented by the Speaker on behalf of the House³³⁹ and, if especially important to the House with an address.³⁴⁰ (The method of enhancement was not to seek wider support, i.e. from the House of Lords but to show the importance of the measure to the Commons.) Heads of the bill presented to the lord lieutenant were sent to, and considered by, the Irish and English/British Privy Councils and law officers and, if agreed, returned to the Irish parliament. If heads were not sent to England the Commons could complain to the lord lieutenant.³⁴¹

When the heads of a bill came back as a bill there was no need for a motion for leave to introduce the bill and there was no need for debate which P.D.G. Thomas remarks provided Westminster with an opportunity to weed out bills that stood no chance.³⁴² In Ireland all finalised bills starting in the Commons—irrespective of whether they rose in the Commons, Lords or Irish Privy Council—were presented to the House in the same manner; it appears that the question put was that the bill be received.³⁴³ Bills that had been to the Lords followed Westminster procedure: the Commons were notified by a message from the Lords that they had passed a bill and sought the concurrence of the Commons. The bill was then given a first reading by the Commons immediately or shortly thereafter.³⁴⁴

³³³ For an example see *CJI*(II), p.183.

³³⁴ For examples see *CJI*(II), pp.437, 521. *CJI* 3 May 1709 sets out the procedure for adding clauses to heads at report: 'And a clause being offered to the House to be inserted in this ... heads of a bill, the same was received and read; and the question being put, that the clause to stand part of the heads of the bill ... It passed in the negative'. The heads was then sent to the lord lieutenant (p.582). One variant was to order re-reading of the heads (*CJI*(III), pp.424, 426), which allowed the House to consider further and to make amendments. It was the equivalent of adjourning a debate on reading of a bill.

³³⁵ *CJI*(III), p.263 (10 Oct 1721) the heads of a bill to prevent frauds and abuses in the making of malt was committed.

³³⁶ For examples see *CJI*(II), pp.84, 205. In the latter instance on 22 Sep 1697 the House ordered 'That the heads of ... bill re committed, and that the said committee be revived, and that it be an instruction to the said committee, to insert a clause therein to ...'

³³⁷ *CJI*(II), p.279; if there was a delay heads were laid on the Table until taken to the lord lieutenant ((II), p.372).

³³⁸ *CJI*(II), p.279; but exact wording varied, and after 1707 *Great Britain* was substituted for *England*. There are some examples, usually from 1690s, of *CJI* recording lord lieutenant's response indicating that he would transmit the heads in due form to England—see for example, (II), p.83. If presentation did not follow the usual procedure and was, for example, carried out by the Speaker, the lord lieutenant's response could, at the direction of the House, be entered in *CJI*—see for example, (II), p.702. Presentation to the lord lieutenant was usually the end of the heads process but *CJI* record some instances when the Commons sought to amend a bill after presentation—for example, (II), p.201.

³³⁹ For examples see *CJI*(II), pp.290, 440, 653, 702.

³⁴⁰ For an example see *CJI*(II), p.289.

³⁴¹ *CJI*(I), p.747

³⁴² Thomas, *Commons*, p.48

³⁴³ *CJI*(II), p.49; a review of *CJI* entries for a sample of bills originating in the Irish Privy Council between 1705 and 1715 shows no significant difference in their treatment compared with bills originating as heads in the Commons or Lords. Entries are a blunt measure but they show, for example, that Privy Council bills took no longer in committee or that they were before House for longer. The failure rate of privy council bills was not lower than other categories, rather numbers originating in Irish Privy Council fell.

³⁴⁴ See, for example, *CJI*(III), pp.88-90 for bills confirming the grants of first fruits and twentieth parts payable out of ecclesiastical benefices and for vesting part of the Loftus estates in trustees for payment of debts and other uses.

At first reading the question put was *That the bill be read a first time*. As at Westminster there were occasional divisions.³⁴⁵ If a bill failed to be given a first reading, 'then the other question was put', that is whether *the bill should be rejected*.³⁴⁶ Without rejection the bill lay in limbo on the table and could, in procedural terms, be revived. With first reading the House had possession of the bill and Members could have access to its contents.³⁴⁷

Immediately after first reading the question was put *That the bill be read a second time on a set day*. This practice is earlier than 1692³⁴⁸ but was not of universal application until after 1697. From the 1719 session, however, on occasion the House, particularly towards the end of the session, would take second reading on the same day as first reading, especially with private acts. This required a separate motion as it was contrary to usual practice.³⁴⁹ There is one example of a division on a motion to take second reading on the same day as first. The House divided on the motion on 16 Mar 1729/30 on a bill to prevent riots in Dublin. The bill had started in the Irish Privy Council and had an uneasy passage through the Lords. The Commons rejected the motion by 93 to 54. The motion was a device to kill the bill at first reading as the House immediately resolved to reject the bill.³⁵⁰ (By this time divisions on first reading had ceased.)

P.D.G. Thomas says that at Westminster the main debate took place on principles at this point (that is second reading) and, if necessary, counsel was heard. In the Irish parliament second reading provided opportunity for such debates and for counsel to appear³⁵¹ but given the heads of bill process and that parties could petition both privy councils second reading did not have had the same importance in Dublin as at Westminster. Of equal (or more) importance to the Irish House of Commons was the origin of the bill and whether it had been amended by the privy councils. Although from time to time the Irish House of Commons trumpeted its opposition to bills that took their rise in the Irish Privy Council,³⁵² the *ILD* shows that its hostility was sparingly selective and flexible.³⁵³

The question was then put *That the bill be committed to committee*. If not committed the question was immediately put that the bill be engrossed; if this motion was negatived, this procedure allowed the House to reject the bill.³⁵⁴ Before the late 1690s there are examples of

³⁴⁵ Thomas, *Commons*, pp.48-49; when a bill came down from the Lords motion was made 'That the engrossed bill from the Lords, entitled, ... be now read, ... Ordered, That the said bill be now read the first time; which was done accordingly, and ordered to be read a second time to-morrow morning' (*CJ*(II), p.680). For an example of a rejection at first reading see (III), p.639 (16 Mar 1729/30). In the early seventeenth century the procedure was looser. For example, MPs could speak at first reading though it was 'unusual' ((I), p.15) and the matter was referred to the Committee of Privileges, though the outcome was not recorded; there is no evidence of debate at first reading in the period covered by this thesis, though it appears that bills may have been debated at first reading until the 1640s—see Tobacco Bill which fell at first reading on 17 June 1641 ((I), p.233). *CJ* for 1613 Parliament records a bill receiving three readings on one day (with no committal)—(I), p.14. By the 1630s the procedure had developed: a bill could be given first and second reading, 'by the consent of the House' ((I), p.77). There is example of a bill going through three readings in a day in 1660s, presumably with paving motions—see ((I), p.508).

³⁴⁶ *CJ*(I), p.614; this example comes from 7 Feb 1662/3.

³⁴⁷ *CJ*((II), p.49 (77 May 1662) recorded: that the 'Speaker moved the House, that there was a bill for the settlement of this Kingdom, which had been long expected, in the hands of the clerk; and that, until the House had attached it by reading part thereof, none of the Members could regularly have perusal of the same; whereupon the House ordered the said bill to be read, and proceeded therein this day to the beginning of the instructions mentioned in the said bill'.

³⁴⁸ See *CJ*(I), p.745 for example, where the House negatived a question and then reject the bill.

³⁴⁹ For example, *CJ*(III), pp.230, 563, 642

³⁵⁰ *CJ*(III), p.639

³⁵¹ For an example see *CJ*((II), p.215. Counsel could be heard at other stages such as third reading—(II), p.288.

³⁵² For example, see the 1707 bill for the better ordering of servants and day-labourers which fell at second reading (*CJ*((II), p.495). According to the *ILB*, the bill originated in Irish Privy Council. On this day the House gave leave for heads of a bill to be brought in on the same subject (p.495).

³⁵³ The *ILD* records that between 1692 and 1730 187 measures arose in Irish Privy Council, of which 99 were enacted and of 88 rejected 36 failed to get through the English/British Privy Council and 30 failed in the Commons. The context was, however, one where number of bills taking their rise in Irish Privy Council was in steady decline from 1690s to 1730s (and precipitately thereafter), which may in part be due to declining role of the Irish Privy Council and a perception that bills that took their rise in Privy Council were likely to have a difficult time in Commons.

³⁵⁴ For examples see *CJ*((II), pp.293, 298, 549(III), p.372.

bills bypassing committal for engrossment³⁵⁵ but on 4 September 1697 the House made it a 'standing rule' that 'after this day no public or private bill is passed, without being first committed after second reading'.³⁵⁶ On occasion relevant petitions could be referred to the committee.³⁵⁷

To effect consideration in committee the question was put *That the House will resolve itself into a committee of the whole House on a named day*. There was some telescoping with some reports taken immediately.³⁵⁸

At the start of committee, the question was put *That the Speaker leave the Chair*.³⁵⁹

When the committee had completed consideration, the Chair informed the House that the committee was ready to report. The question was then put *That the report of the committee be received on a named day*, or, on a motion *that the bill be now reported*, the House could and did move immediately to report.³⁶⁰

On report, the chairman usually reported the simplest resolution of the committee that *had gone through the bill paragraph by paragraph, and agreed thereto, without any amendment*. The House was then asked if it *agreed with the committee*. Where the committee and House wished to reject a bill because of a particular provision the House itself could take the bill provision by provision, indicating which provision was fatal to the bill.³⁶¹ The committee's recommendations—either to accept or reject—could be overturned by the House.³⁶²

The House was then asked *That the bill be engrossed*. (This process was not required for bills that came from the House of Lords, which arrived engrossed.)

The Irish House of Commons adopted the Westminster practice of putting the question *That the bill be read a third time on a set day*.³⁶³ (It was not practice or practicable if a bill had to be engrossed to take that third reading immediately.³⁶⁴)

The question put at third reading was: *That the bill should be read a third time*.

³⁵⁵ For an example see *CJI*(II), p.163.

³⁵⁶ *CJI*(II), p.185

³⁵⁷ For example, see *CJI*(II), p.188.

³⁵⁸ For example, see *CJI*(III), p.158.

³⁵⁹ For an example of a division on the question, though not in respect of a heads or a bill, see *CJI*(II), p.563.

³⁶⁰ For example, see *CJI*(III), p.448 (1 Mar 1725).

³⁶¹ *CJI*(II), p.34; in this example, the committee offered alternative wording to the offending provision and the House concluded its consideration by rejecting the bill. For examples, upon which House divided, see (II), pp.202-03, 406. In former example, on 20 Sep 1697 House rejected parts of bill for translating archiepiscopal see and cathedral church of Tuam to Galway and the *CJI* recorded the paragraphs it objected to. Such an entry was, however, rare; the usual formula was to reject by refusing to proceed with the bill to the next stage without explanation for the decision.

³⁶² On 2 June 1705 Mr Singleton reported from the committee of the whole House on the bill on horse stealing. The committee had gone through the bill, paragraph by paragraph, and agreed to every paragraph except the last, to which they disagreed; which he read in his place and delivered in at Table. The House then considered the resolutions being read a second time, and the 'question severally put thereon', were all agreed on to by the House, except the last, to which the House disagreed. The House then ordered the bill to be engrossed (*CJI*(II), p.473). In earlier parliaments the bill might have been sent back to the lord lieutenant with suggested amendments or suggested a meeting with the Privy Council—for examples see *CJI*(I), pp.709-10, 716, 718, 720-21, 732-33, 736, 771—but after 1692 such practice was abandoned.

³⁶³ Thomas, *Commons*, p.54; the legislative procedure after 1692 does not always record this question being put but it became standard by turn of century; see *CJI*(II), p.412.

³⁶⁴ On 16 Oct 1707, day after the House had received a money bill from the committee of the whole House, it accepted its resolutions and ordered the bill engrossed. On the following day the *CJI* recorded that the House was informed that additional duties on tobacco, etc. expired on 29 Sep 1707, with the result that great quantities goods had been imported since that day and it noted that her Majesty might lose a great part of the additional duties intended to be granted that session. The House thought fit to read engrossed bill a third time and to pass it, notwithstanding that the bill was reported from the committee the day before and notwithstanding several other bills remaining on the Table that had not yet passed, 'which entry is *ordered* by the House to be made to prevent the reading of the said bill a third time, with such dispatch, from being drawn into precedent, where there shall not be the same reason for doing thereof'. the bill was then given a third reading and sent the Lords (II), pp.548, 550).

Immediately on third reading the question was put *That the bill do pass*³⁶⁵ and, if agreed, the question was put: *That Member AB*—usually the chairman of the committee—*do carry the bill to the Lords*, and acquaint them, that this House has passed the same, and desire their concurrence.³⁶⁶ The bill as sent to the Lords had to have an endorsement that it was to be delivered to the Lords and that it had been read in the Commons.³⁶⁷ For bills originating in the Lords, the Commons ordered a Member (usually the chairman again) do acquaint the Lords, that this House has agreed to the ... bill, without any amendment.³⁶⁸ Other Journal entries (from 1703) state explicitly that bills originating in the Lords were carried back to the Lords.³⁶⁹

³⁶⁵ From 1697 this became usual practice.

³⁶⁶ *CJ(I)*, p.551

³⁶⁷ *CJ(I)*, p.134

³⁶⁸ For example, see *CJ(I)*, p.401.

³⁶⁹ For example, see *CJ(I)*, p.412.

6.14.4 The supply process

Summary of the supply timetable in 1711

Stage	1711 Money bill	Date	Calendar days	Sitting days
1	Lord lieutenant's speech to Irish parliament	12 Jul	0	0
House of Commons				
2	Address of thanks and request(s) for papers	14 Jul	2	1
3	Papers laid and House considered supply in committee	17 Jul	5	4
4	Committee on Supply made initial report and Committee of Accounts nominated	20 Jul	8	7
4	Committee of Accounts reported and Committee of Supply met	28 Jul	16	14
5	Committee on Supply reported	30 Jul	18	15
6	Committee on Ways and Means met	4 Aug	23	20
6	Committee on Ways and Means reported	6 Aug	25	21
7	Heads of money bill brought in and referred to committee of the whole House	7 Aug	26	22
7	Committee of the whole House met	7 Aug	26	22
7	Committee of the whole House reported on heads	10 Aug	29	25
Transmission recess		11 Aug	31	26
8	Money bill first reading in Commons	16 Oct	96	32
9	Money bill given second reading and committed to committee of the whole House	20 Oct	100	36
10	Bill considered in committee	25 Oct	105	40
10	Committee reported	30 Oct	110	44
11	Money bill third reading	1 Nov	112	46
House of Lords				
12	Money bill first reading	2 Nov	113	47
12	Money bill given second reading and committed to committee of the whole House	2 Nov	113	47
12	Committee reported	6 Nov	117	50
12	Money bill third reading	6 Nov	117	50
13	Royal assent to bill	9 Nov	120	53

Stage I: the lord lieutenant's speech requesting supply³⁷⁰

The lord lieutenant's speech at the opening of the session contained a request for supply which was directed at the 'gentlemen of the House of Commons'.³⁷¹ No amount was explicitly requested but the lord lieutenant in making the request undertook to supply public accounts for the House to examine and asserted that the administration had been frugal its use of previously voted moneys along with an indication of what the supply requested would be used for. (In the subsequent deliberations the administration usually made clear how much it was requesting.) In the following days the House proceeded to business which included an address of thanks to Anne and the lord lieutenant, containing an undertaking to consider supply.³⁷²

Development: as early as the lord deputy's speech opening the 1695 session these elements were in place when Capel asked the Commons to 'consider ways and means for raising ... sums as are requisite for the [king's] service, and prepare heads of bills to be passed into laws in due form' and he assured the Commons 'that what monies you give shall be applied to the uses for which they are given'.³⁷³ He did not, however, volunteer to supply papers. In response, the Commons undertook to supply 'the deficiency in the revenue'.³⁷⁴ At the opening of the 1698/9 session the lords justices' speech balanced what amounted to a demand for supply—'His Majesty expects that you will enable him to support the charge of the present establishment'—with justification of the call and with the provision of accounts of the revenue.³⁷⁵ By 1703 the form had reached maturity. The part of the speech requesting and justifying the need for supply was addressed explicitly and directly to the Commons and Ormond said that he had ordered accounts to be laid before Members, 'by which you will perceive that the government has expended a very considerable sum toward the building of the barracks, more than was given by parliament for that purpose'.³⁷⁶ From 1705 this had settled into a formula: 'the proper officers to prepare and lay their accounts before you'.³⁷⁷

Stage II: the administration lays papers before the House

Immediately, on the approval of the addresses the House set a date for consideration of the lord lieutenant's speech. By that date the administration had fulfilled its undertakings and laid an extensive dossier of papers before the House, including a summary of the state of accounts, abstracts showing Treasury Office transactions and lists of entitlement to draw on the civil and military establishment. The House ordered that the papers lie on the Table 'to be perused by the Members of the House'; at this point there was no committee or process to which they could be directed.³⁷⁸

³⁷⁰ Based on 1711 session

³⁷¹ *CJI*(II), p.696

³⁷² *CJI*(II), pp.697-98

³⁷³ *CJI*(II), p.44

³⁷⁴ *CJI*(II), p.46

³⁷⁵ *CJI*(II), p.241

³⁷⁶ *CJI*(II), p.315

³⁷⁷ Wording from 1707 (*CJI*(II), p.492); for 1705 see (II), p.424.

³⁷⁸ *CJI*(II), p.700; papers were physically on the Table of the House and MPs examined them (see *Coghill Letters*, no 17 (To Edward Southwell, 9 Oct 1725).

Development: the main elements of this process appeared in 1695, though the timescale was not as compact or as sequentially ordered as in 1711, and the House had to request financial papers—including an abstract of receipts and payments and details of the military establishment and arrears—which were supplied quickly.³⁷⁹ In 1698 with the provision of papers promised in the opening speech, the revenue account was laid before the Commons immediately after the Commons had presented its address of thanks for the lords justices' speech.³⁸⁰ In 1705 the link between papers and the start of the supply process became stronger: when the House resolved on 17 Feb 1704/5 that it would go into committee of the whole House to consider supply on 20 Feb and it ordered the public accounts to be laid the day before, though in the event all were not available.³⁸¹ This was the pattern in 1707.³⁸² The process of producing papers was no formal exercise with the administration producing summaries to assist Members' scrutiny and the House demanding additional papers—in some cases for political rather than financial reasons.

Stage III: consideration in committee of the whole House on Supply

On the day, or the day after, the accounts were presented, the House, according to order, proceeded to take into consideration the lord lieutenant's speech and a motion was made that a supply be granted to Her Majesty. The House then resolved to go into committee of the whole House, to consider the motion and the lord lieutenant's speech and that the papers lying on the Table be referred to the committee.³⁸³ This was a straightforward and formal process.

The committee of the whole House met, according to order, and the main purpose of the meeting was to carry out a preliminary examination of the request for supply and of the papers. The outcome was that a report was prepared and the House had the opportunity to request additional papers, if required.³⁸⁴ The House made a request to the lord lieutenant for the papers—by sending privy counsellors to him, who then reported back—and set a date for consideration of the committee's report. On the following day, according to order, the committee reported its opinion that a supply should be granted. On the question being put the House agreed with the committee and resolved to go into committee of the whole House on a specified date to consider supply (quantum) and the lord lieutenant's speech further.³⁸⁵

Development; this was the least developed part of the process in 1695 because at this point in the process the committee of the whole House resolved to grant a supply for a specific amount ('the quantum') and at the same time appointed a committee to examine the accounts and papers supplied.³⁸⁶ The quantum granted was the amount sought by the lord deputy³⁸⁷ but it made little sense for the detailed scrutiny to be carried out after the Commons had agreed the amount. In 1697 the process was delayed by the vice-treasurer's failure to deliver a particular account.³⁸⁸ From 1703 detailed scrutiny moved to the Committee of Accounts and no quantum was determined until the Committee of Accounts had reported. In 1709, however, the decision in principle to grant supply was made at this stage,³⁸⁹ presumably on the basis that it was obviously required and that the issue was the quantum and for what period supply should be given.

³⁷⁹ *CJI*(II), pp.50-51, 53-54

³⁸⁰ *CJI*(II), p.244

³⁸¹ *CJI*(II), pp.429-30

³⁸² *CJI*(II), p.497

³⁸³ *CJI*(II), p.700

³⁸⁴ *CJI*(II), p.701

³⁸⁵ *As above*

³⁸⁶ *CJI*(II), p.55

³⁸⁷ McGrath, *Irish Constitution*, p.104

³⁸⁸ SP, *William and Mary* 7, no.144 (CSPD: *William III 1697*—7 Aug 1697)

³⁸⁹ *CJI*(II), p.582

Stage IV: the Committee of Accounts

In 1711 the Committee of Accounts had less than a week to carry out its work, though short extensions could be given. If any additional papers sought by the House arrived, they were referred to the Committee of Accounts.³⁹⁰ Once its work was completed, the Committee of Accounts, according to order, made its report—typically a short summary report to which was attached reports from its sub-committees and papers supplied by the administration.³⁹¹ The report and supporting documents were referred to the committee of the whole House which was synchronised to meet when the Committee of Accounts reported³⁹²—see stage V below. In 1711 the sub-committees were allocated the following responsibilities to scrutinise:

- 'to consider the establishment;
- 'the queen's letters for extraordinary payments over and above the establishment;
- 'to look into what had been done about the arsenal proposed and begun last year;
- 'the new offices in the room of what had been destroyed by the late fire;
- 'the Palatines;
- 'the Revenue;
- 'the Ordnance; and
- 'the Barracks'.³⁹³

The sub-committees took a week to complete their work³⁹⁴ and they reported to the main committee and then for its report to be made to the Committee of Supply.³⁹⁵

Development: the Committee of Accounts had been part of the supply process since 1695 (with a break in 1698).

Stage V: further consideration in committee of the whole House on Supply

The Committee of Supply was the crucial stage. Armed with the detailed work of the Committee of Accounts the House could examine both details and overall amounts. In 1711, upon the Committee of Accounts reporting to the House, according to order, it went into committee of the whole House to consider its report. This was likely to be a substantial item of business running past 4pm requiring the adjournment of committees scheduled to meet at 4pm.³⁹⁶ The outcome was resolutions which were reported to the House the following sitting day. (There could be more than one sitting of the committee of the whole House.) By 1711 the resolutions put to the House specified the maximum amount or amounts to be granted and set out the broad purposes for which supply was to be granted, including, if necessary, a time limit—'sufficient to make good the necessary branches of the establishment for two years, commencing on 24 June 1711'.³⁹⁷ On the House's agreement to these resolutions, it specified a date for it to go into committee of the whole House to consider ways and means for raising the supply.³⁹⁸

Development: by 1707 a method of operation emerged:

- while the Committee of Accounts was at work dates were scheduled for the committee of the whole House to meet, the order was read on the scheduled day and, if the Committee of

³⁹⁰ *CJ*(II), pp.702, 704

³⁹¹ *CJ*(II), pp.ccxiv-cclvii.

³⁹² *CJ*(II), p.705

³⁹³ *SP*, 63–367 ff.138-39(stamped 11-12) (28 July 1711)

³⁹⁴ *As above*

³⁹⁵ *As above*

³⁹⁶ *CJ*(II), p.706 (28 July 1711)

³⁹⁷ *CJ*(II), pp.706 (30 July 1711), 709 (2 Aug 1711)

³⁹⁸ *CJ*(II), p.709

Accounts was not ready, a fresh date scheduled, its meetings were not allowed to be rolled up with the daily general deferral of orders;³⁹⁹

—when the Committee of Accounts reported to the House, its report was referred to the committee of the whole House on Supply, which then met and considered the report;⁴⁰⁰ and

—the committee of the whole House usually reported twice—once on the principle that a supply should be granted for a specified period and separately on the quantum.⁴⁰¹

In 1711 the quantum was £122,953 and some Members attacked the motion arguing that it should be split into its component parts, such as the amount for Trinity College, the arsenal and buying arms, and their justified separate computations on the grounds that it was 'the method used on like occasions in the English House of Commons'.⁴⁰² But eventually the 'single' motion passed without a division.

Stage VI: consideration in committee of the whole House on Ways and Means

Having settled the quantum, the House had to decide how it was to be financed. The work of the Committee of Accounts fed into this side of the equation as the papers supplied by the administration showed how much each tax brought in.

According to order, the House went into committee of the whole House on Ways and Means.

This would be a substantial item of business, usually chaired by the same Member who chaired the Committee of Supply, at the end of which the committee produced resolutions which were reported to the House on the following sitting day.⁴⁰³ The resolutions made to the House took the form of specified duties on products for specified periods—for example:

'*Resolved*, That it is the opinion of this Committee, that towards the supply of [specified amount] granted to Her Majesty, an additional duty to be laid upon or silks and stuffs, made manufactured in Persia, China or the East Indies, which shall be imported into this kingdom from and after the ... 24th day of December, 1711.

'*Resolved*, That is the opinion of this committee, that the said additional duty be 1s 6d *per yard*'.⁴⁰⁴

As with the report in the Committee of Supply, the end of the Committee on Ways and Means concluded with the House giving leave to the chairman of the committee and the law officers to draft and bring in heads of a bill on the basis of the resolutions.⁴⁰⁵ These procedures were in step with Westminster.

Stage VII: the heads of money bill

The heads of a money bill based on the resolutions were drafted by a small committee, which included the chairman of the committees of the whole House and a law officer, and would be brought in very quickly—possibly the following day—and were referred to a committee of the whole House on the next sitting day.⁴⁰⁶ The committee of the whole House met, according to the order, and prepared a report, which given the scrutiny already carried out was likely to proceed rapidly. A date for the House to consider the report would be ordered at the end of the committee of the whole House.⁴⁰⁷ According to order, the House considered the report, which would take the form of the standard formula that 'that they had gone through the [heads] paragraph by paragraph, and agreed thereto without any amendment, and delivered

³⁹⁹ See *CJ(II)*, pp.503, 507.

⁴⁰⁰ *CJ(II)*, p.510

⁴⁰¹ *CJ(II)*, pp.511, 516

⁴⁰² *Addison Letters*, pp.222-23

⁴⁰³ *CJ(II)*, p.711

⁴⁰⁴ *CJ(II)*, p.712

⁴⁰⁵ *As above*

⁴⁰⁶ *CJ(II)*, p.713

⁴⁰⁷ *As above*

the same at the Table, where the same were agreed to by the House, [*nemine contradicente*].⁴⁰⁸ The House then ordered the chairman of the committee to take the heads to the lord lieutenant for transmission to Great Britain.

Stage VIII: first and second reading of money bill

The House re-assembled after the transmission recess to deal with the bills that had been sent back from London.⁴⁰⁹ At an early stage the money bill to enact the duties was presented to the House and given its first reading along with an order for second reading a few days later.⁴¹⁰ This was a largely formal process—with the money bill well down the list of bills presented and read—probably taking up little time in the House. In 1711 of the five bills given first reading on same day (Tuesday, 16 October) as the money bill three were ordered for second reading two days later, Thursday (18 October), and one other (tillage bill) for second reading on the Friday with the money bill. The bill was therefore within the normal timetable, perhaps in the slower lane.

Development: in 1695 the House resumed, after the transmission recess, on 18 Nov but it was not until 30 Nov that the three supply bills⁴¹¹ were presented—by the chairman of the committees that examined supply and ways and means. As far as the *CJI* record the names of the Member presenting the bills; this was the pattern in the subsequent sessions.

In 1711 second reading took place according to order on Friday (19 October) and the bill was committed to committee of the whole House six days later. Again this was a largely formal process probably taking up little time in the House. The timetable may have been slower than that for important legislation: the tillage bill was committed for consideration on the following Monday.⁴¹²

Development: each of the three supply bills in 1695 were given second readings and engrossed without committal.⁴¹³ In 1697 the House made a standing order that all bill given a second reading had to be committed to committee; from this date all money bills were committed to committee of the whole House (see Appendix 6.13.1).

Stage IX: bill consideration in committee of the whole House

According to order, the House went into committee of the whole House to consider the bill as the last item of substantive business on Thursday, 25 October; the chair was taken by the same Member who had chaired the Committees on Supply and Ways and Means. The committee completed its work and the chairman informed the House that he was ready to report. The House ordered his report to be taken on the following Tuesday.⁴¹⁴ The pattern of the previous legislative stages continued: not an excessive period but it appears long when most reports were ordered for consideration on the following day, though the majority were rolled forward to later dates. On Tuesday, 30 October, the report was made in the standard form that the committee had gone through the bill paragraph by paragraph without amendment. The House accepted the report as it ordered the bill engrossed.⁴¹⁵ As is usual, no order for the next stage was made.

⁴⁰⁸ *CJI*(II), p.718

⁴⁰⁹ The House had adjourned on 11 Aug and reassembled on 20 Sep and adjourned to 4, 10 and Oct because transmitted bills had not yet arrived (*CJI*(II), pp.719-20).

⁴¹⁰ *CJI*(II), p.720

⁴¹¹ The first covered the draperies, wine, etc. (*CJI*(II), p.127); second the poll tax ((II), p.128); and third additional duties on beer, ales and liquors ((II), p.137).

⁴¹² *CJI*(II), p.722

⁴¹³ *CJI*(II), pp.129, 129, 138

⁴¹⁴ *CJI*(II), p.725

⁴¹⁵ *CJI*(II), p.727

Stage X: third reading

The engrossed bill is given its third reading on Thursday, 1 Nov, and the House resolved that it 'do pass' and ordered that it be carried to the Lords—it was carried by the chairman of the committee—for their concurrence.⁴¹⁶ From 1695 it had been the custom for chairmen of committees of the whole House to be directed to take the bills after third reading to the House of Lords.⁴¹⁷

Stage XI: House of Lords

The bill was presented by the chairman to the Lords and immediately given its first and second reading and was ordered to be committed to a committee of the whole House for consideration on the following day, in order to 'inspect and consider of the said bill, and compare the same with the transmiss'.⁴¹⁸ The committee reported to the House a few days later that it had gone through and agreed the bill without amendment. The House then read the bill a third time, resolved that it should pass into law and ordered that the House of Commons be informed accordingly.⁴¹⁹

Development: established practice in both London and Dublin was that once approved by the House of Lords supply bills were sent back to the House of Commons and were presented for royal assent by the Speaker.⁴²⁰ When on 30 Aug 1709, the day parliament was due to be prorogued, the Commons received message saying that the Lords had approved a money bill, the Commons requested a conference with the Lords at which the Commons pointed out that the Lords' messengers had 'omitted to bring in and lay on the Table of the House of Commons the ... bill, as is usual in case of money bills'. The next entry in *CJI* corrected the Lords' *oversight* to record that 'which bill the messengers delivered at the Table with the message'.⁴²¹ The 'usual' practice was resumed. From 1715 Westminster practice was adopted and money bills were brought back to the Commons, allowing the House to underline its primacy in financial matters.⁴²²

Stage XII: Royal Assent

Royal assent was given to all the bills that had passed both Houses, including the money bill on 9 Nov 1711, the day parliament was prorogued.⁴²³

⁴¹⁶ *CJI*(II), p.728

⁴¹⁷ See *CJI*(II), pp.129-30, 141.

⁴¹⁸ *LJI*(II), p.402

⁴¹⁹ *LJI*(II), p.408

⁴²⁰ See for example, *LJE*(XI), p.171, (XV), p.11, *CJI*(I), p.428, (II), pp.577, 677, 754.

⁴²¹ *CJI*(II), pp.634-35

⁴²² *CJI*(III), pp.20, 159, 236, 441, 624

⁴²³ *CJI*(II), p.735

6.15 Provisions in the 1707 Act limiting parliamentary privilege

Provision in 1707 Act for explaining and regulating privilege of parliament (6 Anne c.8 g)	Commentary
I Limited privilege to 40 days after prorogation as well as after dissolution; it was silent on, and therefore left in place, the 40 day pre-assembling moratorium	The provision clarified and reduced the scope of the 1463/4 Irish statute which had previously been the subject of dispute in parliament and the courts. The Irish statute did not follow the English Act which removed the 40 day rule and lifted privilege on adjournments of both Houses after 14 days in respect of action in court but excluded the arrest of Members. Nor did the Irish statute replicate the English Act's explicit application to all those covered by parliamentary privilege, including menial servants (12&13 William III (England) c.3).
II Privilege discounted for purposes of statute of limitation, if the case pursued immediately after parliament rose	The provision reduced the scope of the 1463/4 statute; previously litigants had to petition for the lifting of privilege; the wording of the 1707 Irish provision followed the equivalent English provision of 1701 closely, though with the addition of requirement for immediate action on the rising of parliament.
III Lawful to distrain goods and chattels of Members for arrears of rent, duty or service owing	The provision reduced the scope of the 1463/4 statute; previously promulgated as an order of the Commons in 1697; this provision was implicit in the English statute cited at I above but not while parliament was sitting.
IV MP or peer acting as trustee, guardian, executor or administrator not covered by privilege	The provision reduced the scope of the 1463/4 statute; previously promulgated as a standing order of the Commons in 1695. There was a standing order made by the Westminster House of Commons on 2 Nov 1691 removing privilege from Members acting in the capacity of trustee. ⁴²⁴
V Debts or duties owed to queen were not covered by privilege but the MP or peer debtor could not be arrested or imprisoned.	The provision reduced the scope of the 1463/4 statute; the wording of the 1707 Irish provision followed the equivalent English provision of 1701, though not as closely as II above.

⁴²⁴ CJE(X), p.544

6.16 Publications aimed as affecting passage of legislation⁴²⁵

Publication	Outcome
<i>The case of the creditors of Sir Abel Ram, Kt, deceased, humbly presented to the honourable, the knights, citizens and burgesses in parliament assembled (n.p., [1695])</i>	Legislation failed in 1695 in Commons (Bill no. 5101) and in English Privy Council in 1698 (Bill no. 5160)
<i>Sir John Eustace's case, concerning the bill of Chancellor Eustace, and a bill presented in parliament. (n.p., [1697])</i>	Legislation enacted: 9 William III c.12 (private) (Bill no.2561)
<i>The address of the people called Quakers, living in the country: relating to a bill intituled, An act for the more easie recovery of tythes, &c. Humbly offered to the parliament of Ireland (n.p., [1697])</i>	Legislation failed in English Privy Council in 1697 (Bill no. 5148) and in 1698 in Commons (Bill no. 3977)
<i>To the knights, citizens and burgesses of the Honourable House of Commons in this present Parliament assembled &c. The humble petition and case of the poor prisoners for debt, in the Marshalsea, of the four-courts, and the city of Dublin (n.p., [1698])</i>	Two bills enacted in 1698: 10 William III c.1 (Bill no.0789) and 10 William III c.9 (Bill no.1067)
<i>The case of Geffry Blake a Protestant, the eldest son of Walter Blake, of Drum, in the West-Liberties of Gallway, Esq; humbly offer'd to the consideration of the Honourable the House of Commons (n.p., [1703?])</i> <i>The Case of Francis Lynch of Dublin, Merchant, in reference to a Complaint made against him to the Honourable the House of Commons, of a breach of Privilege, by Mr Jeffrey Blake (n.p., [1703?])</i>	Legislation failed in Commons in 1697 (Bill no.5139), 1698 (Bill no.5162) and in Commons in 1703 (Bill no.2441)
<i>The case of Lieut. Col. Redmond Morres, eldest son of Sir John Morres of Knockagh, in the county of Tipperary, baronet [sic]; humbly offer'd to the consideration, of the Honourable the House of Commons (n.p., [1703])</i>	Legislation enacted: 2 Anne c.6 (private) (Bill no. 2707)
<i>The case of David Power, the younger, of the city of Dublin, gent. a Protestant (n.p., [1703])</i>	Legislation failed in Commons in 1703 (Bill no.2767)
<i>The case of the Roman catholics of Ireland in relation to the bill against the growth of popery and other bills now under consideration (n.p., [1703 or 1704])</i> <i>An impartial relation of the several arguments of Sir Stephen Rice, Sir Theobald Butler, and Councillor Malone, at the bar of the house of commons of Ireland, Feb. 22. and at the bar of the house of lords, Feb. 28th. 1703. against passing the bill then under consideration of the said houses. Intituled an act to prevent the further growth of popery (Dublin, 1704)</i>	Legislation enacted: 2 Anne c.6 (Bill no. 5355)
<i>The case of George Mathew Junr. of Thurless in the County of Tipperary, in the kingdom of Ireland, Esq; and of Martha his wife, in relation to a Bill lately transmitted from Ireland for Her Majesty's approbation in Council, intituled, An Act to prevent the growth of popery (n.p., [1703])</i> <i>Reasons humbly offer'd for the maintaining a clause in the bill to prevent the further growth of Popery in Ireland: notwithstanding the endeavours and objections of George Matthews, Esq; against it (n.p., [1703])</i>	No proviso included
<i>The case of George Mathew Junr. of Thurless in the County of Tipperary, in the kingdom of Ireland, Esq; and of Martha his wife, in relation to a Bill lately transmitted from Ireland for Her Majesty's approbation, in favour of Chichester Phillips, Esq. (n.p., [1703])</i>	Legislation failed in English Privy Council in 1703/4 (Bill no.2787)
<i>A timely caveat of the inferiour clergy of Ireland, against a bill entituled, an act for purchasing glebes, &c. (London, 1704)</i>	Legislation failed in Lords in 1703/4 (Bill no.5067)
<i>An act for vesting the estate of Sir Thomas Hackett knt. in trustees, and for empowering them to sell the same for payment of his debts, if the value thereof amount to so much (n.p., [1705]).</i>	Legislation enacted: 4 Anne c.3(private0 (Bill no. 2597)
<i>The case of the Right Honourable Francis Lord Conway, in answer to the case of Sr. John Rawdon Barrt. [sic] in relation to a bill now under the consideration of the Honourable the House of Commons of Ireland (Dublin, 1705)</i>	Legislation failed in Commons in 1705 (Bill no.2503)
<i>Reasons humbly offered to the Honourable the House of Commons. Against the heads of a bill now in that Honourable House, entituled; A bill to supply the defects of several Acts of Parliament made in this kingdom, for the keeping of schools (n.p., [1705])</i>	Legislation failed in Commons in 1705 (Bill no.3673)

⁴²⁵ List drawn from Bergin, 'Irish Legislative Procedure', pp.273-74; publications reviewed are listed in bibliography. Bill numbers are from the *ILD*.

6.17 Matters examined by Committee on the State of the Nation

Dates operating	Issues examined
Oct 1692	<i>Not identified (CJI(II), pp.26, 28)</i>
Sep 1695	Infrequency of parliaments, ill-effects of the encouragement of Catholics, illegal dispensing of the Act of Settlement (<i>CJI(II)</i> , pp.65, 69) ⁴²⁶
Dec 1695	Suppressing tories and rapparees and to prevent grand juries without authority of parliament (<i>CJI(II)</i> , pp.138, 142) ⁴²⁷
Nov 1698	<i>Not identified (CJI(II), pp.268, 272)</i>
Sep-Nov 1703	Distressed condition of the country concerning the sufferings and services of the Protestants, decay of trade, absence of coin, threats to liberties, charges levied by the Trustees for Forfeited Estates, malicious reports circulated about Protestants, infrequency of parliaments, presentments of co. Cork grand juries (<i>CJI(II)</i> , p.333, 335) ⁴²⁸
May-July 1705	Pamphlets and other publications attacking the Church of Ireland divided Protestants and saying mass and preaching and teaching in separate congregations promoted Popery and James III, magistrates needed to enforce the law strictly, no scope for seminaries other than those of the Church of Ireland (<i>CJI(II)</i> , pp.468, 472)
July 1707	Arrangements for filling vacancy when the lord lieutenant died, surrendered office or left the country, legality of Alderman Page's presentment and the attorney general should act on it to initiate prosecutions (<i>CJI(II)</i> , pp.506, 512)
Nov 1715–May 1716	Military establishment [and other matters?] (<i>CJI(III)</i> , pp.12, 20, 23, 28, 37, 95)
Sep 1723	Wood's copper halfpence and financial matters (<i>CJI(III)</i> , pp.319-23)
Oct 1729–Apr 1730	Tillage and shortage and quality of coin (<i>CJI(III)</i> , pp.589, 613, 647)

⁴²⁶ Instruction to bring in heads supporting Protestant purchasers given; two heads introduced but did not progress Bill nos.2056 and 5190 (*ILD*)

⁴²⁷ A bill on the former had just been enacted but found to be defective and was amended in 1697; a heads to prevent grand juries raising money came before the House on 2 Dec but did not progress (Bill no.2366 (*ILD*)).

⁴²⁸ Representation made to Anne on 22 Oct 1703 and to be printed, which was then deferred (*CJI(II)*, pp.342, 345-46, 365, 367, 391, 393-94)

6.18 Holidays and fast days

6.18.1 Regular anniversaries kept by the House of Commons

Date	Reason	First record
29 May	Restoration of Charles II	1705 ⁴²⁹
1 Aug	Accession of George I	1719
23 Oct	Anniversary of outbreak of 1641 war	1692 ⁴³⁰
4 Nov	Birthday of William III (merged with 5 Nov)	1703 ⁴³¹
5 Nov	Anniversary of the Gunpowder Plot	1698 ⁴³²
30 Jan	Anniversary of the execution of Charles I	1703/4 ⁴³³

⁴²⁹ The House never sat on this day in any earlier session, although the House did not sit regularly in May before 1705. No *CJI* entry appointing a preacher until 1710 ((II), p.720).

⁴³⁰ The House did not sit on 23 Oct 1695 or 23 Oct 1703 during business weeks, though there is no *CJI* entry appointing a preacher until 1709 ((II), p.586), though in 1707 the House met in order to go to Church ((II), p.559).

⁴³¹ In 1692 the House had intended to sit on 4 Nov but prorogued peremptorily on 3 Nov (*CJI*(I), pp.34-36); in 1695 and 1697 the House had been adjourned apparently waiting for bills to arrive (pp.115, 212); the House sat on 4 Nov 1698 (p.262), but not 5 Nov 1698; 3 Nov 1703, that is 18 months after William's death, the House was reminded that 4 Nov was the birthday of King William 'of glorious Memory, our delivery from Popery and slavery' and that 5 Nov was commemoration of the Gunpowder Plot so the House adjourned until 6 Nov (II, p.358).

⁴³² Since 1692 the House had not sat on 5 Nov; the House sat on 4 Nov 1698 (*CJI*(II), p.262), but not 5 Nov 1698; 3 Nov 1703 House was reminded that 5 Nov was commemoration of the Gunpowder Plot so the House adjourned until Saturday (II, p.358). The House met on 5 Nov 1711, 'in order to go to church' (II, p.731). First reference to preacher is 1710 (II, p.720).

⁴³³ The House never sat on this day in any earlier session, although the House did not sit regularly in Jan previously.

6.19 Divisions

6.19.1 Recorded divisions before 1692⁴³⁴

	Date		Yeas	Noes	Total
1	18 Oct	1614	95	78	173
2	10 Nov	1614	64	62	126
3	29 Apl	1615	62	77	139
4	03 May	1615	74	83	157
5	05 May	1615	54	90	144
6	05 May	1615	71	91	162
7	16 May	1615	88	80	168
Average majority 15			Average number voting 153		
-	17 Nov	1634	69	78	147
1	04 Mar	1640/1		⁴³⁵	
2	05 Mar	1640/1		²¹	
3	27 May	1641	92	83	175
4	27 May	1641	61	65	126
5	25 Jun	1641	56	67	123
6	25 Jun	1641	56	64	120
7	07 Aug	1641	50	50	100
8	11 Jan	1641/2	28	38	66
9	06 Aug	1642	18	14	32
10	18 Dec	1643	22	25	47
11	08 Apl	1644	26	28	54
12	17 Apl	1644	21	19	40
13	24 Feb	1645	16	13	29
14	07 Nov	1646		⁴³⁶	
Average majority 5			Average number voting 88		
1	20 Jun	1661		-21	
2	24 Jul	1661	56	50	106
3	24 Jul	1661	56	53	109
4	10 Sep	1661	20	21	41
5	24 Apl	1662	41	24	65
6	23 May	1662	42	64	106
7	27 May	1662	62	50	112
8	27 May	1662	58	53	111
9	20 Jun	1662		²¹	
10	28 Jun	1662		²²	
11	01 Jul	1662	53	49	102
12	01 Jul	1662		²²	
13	18 Jul	1662	40	27	67
14	02 Aug	1662	47	30	77

⁴³⁴ Figures taken from *CJ*; tellers not included

⁴³⁵ Noes are recorded as being in majority

⁴³⁶ Ayes are recorded as being in majority

	Date			Yeas	Noes	Total
15	13 Aug	1662		63	55	118
16	13 Aug	1662		61	55	116
17	18 Sep	1662		45	29	74
18	23 Sep	1662		48	40	88
19	02 Mar	1662/3		29	54	83
20	02 Mar	1662/3		53	27	80
21	09 Nov	1665		61	53	114
22	09 Dec	1665		64	74	138
23	15 Dec	1665		61	94	155
24	16 Dec	1665		93	74	167
25	23 Dec	1665		45	37	82
26	22 Feb	1665/6		37	20	57
Average majority 11				Average number voting 99		

6.19.2 Recorded divisions after 1692⁴³⁷

Date			Yeas	Noes	Total	Stayed in chamber
Sat	05 Oct	1695	94	116	210	Yeas
Tues	15 Oct	1695	53	155	208	Not recorded in <i>CJI</i>
		1695	104	104	208 ⁴³⁸	Not recorded in <i>CJI</i>
Tues	22 Oct	1695	105	84	189	Not recorded in <i>CJI</i>
Fri	25 Oct	1695	128	79	207	Noes
		1695	114	81	195	Noes
Fri	25 Oct	1695	121	77	198	Noes
Thurs	21 Nov	1695	57	31	88	Not recorded in <i>CJI</i>
Mon	02 Dec	1695	62	58	120	Noes
Fri	06 Dec	1695	43	49	92	Yeas
Sat	07 Dec	1695	38	35	73	Noes
Tues	11 May	1697	64	45	109	Noes
Fri	13 Aug	1697	117	84	201	Yeas
Wed	25 Aug	1697	70	63	133	Yeas
Tues	07 Sep	1697	34	22	56	Noes
Thurs	09 Sep	1697	61	35	96	Yeas
Tues	14 Sep	1697	34	42	76	Noes
			44	39	83	Yeas
Wed	15 Sep	1697	70	63	133	Yeas
Mon	20 Sep	1697	84	51	135	Yeas
Wed	22 Sep	1697	30	43	73	Yeas
			56	41	97	Noes
Tues	23 Nov	1697	92	68	160	Noes
Wed	05 Oct	1698	35	48	83	Yeas
Thurs	13 Oct	1698	72	101	173	Noes
			105	55	160	Yeas
Sat	15 Oct	1698	94	64	158	Yeas
Sat	22 Oct	1698	72	80	152	Yeas
			85	77	162	Noes
			66	94	160	Noes
Mon	24 Oct	1698	85	92	177	Yeas
Tues	15 Nov	1698	38	90	128	Noes
Mon	21 Nov	1698	49	98	147	Noes
Fri	25 Nov	1698	34	25	59	Noes
Wed	30 Nov	1698	56	60	116	Noes
			63	80	143	Noes
Tues	27 Dec	1698	70	40	110	Noes
Tues	03 Jan	1698/9	74	34	108	Yeas
Tues	17 Jan	1698/9	105	41	146	Yeas
Wed	18 Jan	1698/9	59	40	99	Yeas
Mon	23 Jan	1698/9	48	89	137	Yeas
Tues	24 Jan	1698/9	61	28	89	Yeas

⁴³⁷ All figures are taken from *CJI*, except those indicated otherwise in footnotes. A dotted line indicates a transmission recess, a continuous black line end of a session and a thick black line end of a parliament.

⁴³⁸ The Speaker gave his vote with yeas (ayes).

Date			Yeas	Noes	Total	Stayed in chamber
Average number voting			134	% won by those staying in chamber (where recorded)		55%
Average majority			25			
Mon	27 Sep	1703	116	111	227	- ⁴³⁹
Tues	28 Sep	1703	131	59	190	- ⁴⁴⁰
Thurs	7 Oct	1703	88	141	229	- ⁴⁴¹
Thurs	14 Oct?	1703	123	119	242	- ⁴⁴²
Sat	16 Oct	1703	98	104	202	Not recorded in <i>CJI</i>
Wed	3 Nov	1703	138	88	242	- ⁴⁴³
Fri	11 Feb	1703/4	82	125	207	Yeas
			108	100	208	Noes
Tues	29 Feb	1703/4	44	39	83	Yeas
Wed	28 Feb	1704/5	76	142	218	Not recorded in <i>CJI</i>
Mon	19 Mar	1704/5	66	88	154	Not recorded in <i>CJI</i>
Thurs	31 Jul	1707	73	93	166	Not recorded in <i>CJI</i>
			75	72	147	Not recorded in <i>CJI</i>
Tues	21 Oct	1707	84	64	148	Yeas
Fri	24 Oct	1707	52	64	116	Noes
Sat	25 Oct	1707	29	39	68	Noes
Mon	27 Oct	1707	46	40	86	Noes
Tues	28 Oct	1707	65	53	118	Noes
Sat	11 Jun	1709	74	68	142	Yeas
Sat	18 Jun	1709	36	63	99	Yeas
			30	62	92	Noes
Mon	20 Jun	1709	39	89	128	Yeas
Wed	22 Jun	1709	79	52	131	Yeas
Fri	12 Aug	1709	147	59	206	Yeas
Thurs	08 Jun	1710	65	130	195	Yeas
Sat	14 Jul	1711	84	39	123	Yeas
Wed	24 Oct	1711	105	109	214	Yeas
Mon	29 Oct	1711	116	101	217	Noes
			108	109	217	Yeas
Average number voting			154	% won by those staying in chamber (where recorded)		47%
Average majority			25			
Wed	25 Nov	1713	127	131	258	- ⁴⁴⁴
Fri	27 Nov	1713	131	114	245	Noes
Tues	1 Dec	1713	127	121	248 ⁴⁴⁵	Not recorded in <i>CJI</i>

⁴³⁹ SP, 63–363, no.74(stamped 242-43) ([Chief Secretary Southwell to Secretary of State Nottingham], 2 Oct 1703); it is unclear why the division is not recorded in the *CJI*.

⁴⁴⁰ SP, 63–363, no.74(stamped 242-43); is unclear why the division is not recorded in the *CJI*.

⁴⁴¹ SP, 63–363, no.85(stamped 218-19) (Southwell to Nottingham, 9 Oct 1703); Committee of Supply

⁴⁴² BL, Add. 28,891 f.135 (Lt.-Gen. William Steuart to John Ellis, 14 Oct 1703); [committee of the whole House?]

⁴⁴³ SP, 63–363 no.117(stamped 135-38) ([Southwell to Nottingham], 4 Nov 1703); Committee of Ways and Means

⁴⁴⁴ Division on election of the Speaker; yeas went to right, noes to left—see p.172 above.

⁴⁴⁵ [Division in committee of the whole House on the chairmanship of Committee of Privileges or Elections?]

Date			Yeas	Noes	Total	Stayed in chamber
Tues	8 Dec	1713	95	149	244 ⁴⁴⁶	Not recorded in <i>CJI</i>
Wed	9 Dec	1713	82	73	155	Not recorded in <i>CJI</i>
Fri	11 Dec	1713	81	140+	221	Not recorded in <i>CJI</i>
Mon	14 Dec	1713	108	119	227	Not recorded in <i>CJI</i>
			115	118	233	Not recorded in <i>CJI</i>
Wed	16 Dec	1713	120	122	242 ⁴⁴⁷	Not recorded in <i>CJI</i>
Thurs	17 Dec	1713	117	109	226 ⁴⁴⁸	Not recorded in <i>CJI</i>
Fri	18 Dec	1713	136	110	246 ⁴⁴⁹	Not recorded in <i>CJI</i>
			135	101	236 ⁴⁵⁰	Not recorded in <i>CJI</i>
			135	89	224	Not recorded in <i>CJI</i>
Tues	22 Dec	1713	135	75	210 ⁴⁵¹	Yeas
Average number voting			230			
Average majority			24			
Wed	23 Nov	1715	117	57	174	⁴⁵²
Wed	14 Dec	1715	51	154	205	⁴⁵³
Sat	21 Jan	1715/6	85	46	131	Ayes
Wed	30 May	1716	124	60	182	⁴⁵⁴
Wed	6 Jun	1716	133	16	149	Ayes
Mon	16 Sep	1717	51	46	97	Ayes
Sat	7 Dec	1717	32	30	62	Noes
Mon	27 Jul	1719	71	106	177	Ayes
			81	93	173	Noes
Mon	26 Oct	1719	19	50	69	Noes
Tues	26 Sep	1721	73	47	120	Ayes
Sat	14 Oct	1721	94	102	196	Not recorded in <i>CJI</i>
		1721	98	91	189	Ayes
Sat	21 Oct	1721	24	63	87	Ayes
Tues	7 Nov	1721	76	63	139	Ayes
Sat	11 Nov	1721	70	49	119	Ayes

⁴⁴⁶ Division in the Committee of Privileges and Elections (*Middleton Letters* (1248/3/138-139) ([Alan Brodrick], to [Thomas Brodrick], 9 Dec 1713))

⁴⁴⁷ *CJI*(II), p.767 (16 Dec 1713) recorded a division on whether to remove reference to lord chancellor in a motion and that 'on a division it passed in the negative'; figures *Perceval Diaries*, p.133.

⁴⁴⁸ *CJI*(II), p.768 (17 Dec 1713) recorded a division on the petition to unseat an MP for Belfast; figures *Perceval Diaries*, p.133.

⁴⁴⁹ *CJI*(II), p.769 (18 Dec 1713) recorded a division on a motion that lord chancellor had acted against his duty and Protestant interest; figures *Perceval Diaries*, p.135.

⁴⁵⁰ *CJI*(II), p.770 (Dec 1713) recorded a division on a decision to address Anne; figures *Perceval Diaries*, p.136.

⁴⁵¹ *CJI*(II), p.772 (22 Dec 1713) recorded a division on a decision not to adjourn consideration of state of city of Dublin; figures *Perceval Diaries*, p.137.

⁴⁵² *SP*, 63–373(stamped 256) (Lords Justices to Secretary of State Stanhope, 23 Nov 1715); 'orders of the day be read'; it is unclear why it is not recorded in the *CJI*.

⁴⁵³ *SP*, 63–373(stamped 304) (Lords Justices to Stanhope, 13 Dec 1715); it is unclear why it is not recorded in the *CJI*.

⁴⁵⁴ *BL*, *Add.* 47088 f.65 Charles Dering to Lord Perceval, 1 June 1716); a division in the committee of the whole House on the state of the nation

Date			Yeas	Noes	Total	Stayed in chamber
Sat	9 Dec	1721	80	150	230	Ayes
Mon	11 Dec	1721	114	94	208	Noes
Sat	13 Jan	1721/2	52	14	66	Noes
Tues	16 Jan	1721/2	52	18	70	Ayes
Thurs	10 Oct	1723	92	31	123	Noes
Sat	19 Oct	1723	89	88	177	Ayes
Mon	21 Oct	1723	87	47	134	Noes
Tues	5 Nov	1723	54	89	143	Noes
Wed	6 Nov	1723	54	48	102	Noes
Thurs	14 Nov	1723	38	80	118	Noes
Fri	20 Dec	1723	128	12	140	Ayes
Tues	24 Dec	1723	56	60	116	Noes
Mon	3 Feb	1723/4	76	89	165	Ayes
Fri	7 Feb	1723/4	55	85	140	Ayes
Tues	26 Oct	1725	99	96	195	⁴⁵⁵
Tues	26 Oct	1725	78	98	176	Ayes
Fri	12 Nov	1725	105	114	217	⁴⁵⁶
Mon	15 Nov	1725	93	114	207	Ayes
			122	71	193	Ayes
			83	111	194	Ayes
Fri	19 Nov	1725	98	66	164	Noes
Mon	13 Dec	1725	50	67	117	Noes
Thurs	16 Dec	1725	38	62	100	Ayes
Thurs	27 Jan	1725/6	8	103	111	Noes
Average number voting			146	% won by those staying in chamber		56%
Average majority			32			
Wed	20 Dec	1727	80	72	152	Ayes
			79	72	151	Ayes
			72 ⁴⁵⁷	72	144	Ayes
			71	72	143	Ayes
Wed	24 Jan	1727/8	92	71	163	Noes
Thurs	1 Feb	1727/8	42	33	75	Noes
Fri	2 Feb	1727/8	119	60	179	Ayes
Mon	5 Feb	1727/8	74	66	140	Noes
Fri	9 Feb	1727/8	43	38	81	Ayes
Thurs	15 Feb	1727/8	68	68 ⁴⁵⁸	136	Ayes
			79	53	132	Ayes
Mon	19 Feb	1727/8	101	78	179	Ayes
			101	78	179	Ayes
Fri	15 Mar	1727/8	73	12	85	Ayes

⁴⁵⁵ *Coghill Letters*, no.18 (To Edward Southwell, 30 Oct 1725), *SP*, 63–386(stamped 214-15) (Lord Chancellor West to [Secretary of State Newcastle], 26 Oct 1725; [a division in committee of accounts or whole House?])

⁴⁵⁶ *Coghill Letters*, no.19 (To Edward Southwell, 18 Nov 1725), this is a division in committee of the whole House.

⁴⁵⁷ The Speaker gave his vote with ayes.

⁴⁵⁸ The Speaker gave his vote with noes.

Date			Yeas	Noes	Total	Stayed in chamber
Mon	8 Apl	1728	38	47	85	Noes
Fri	17 Oct	1729	50	51	101	Ayes
Fri	[7 Nov?]	1729	93	90	183	⁴⁵⁹
Mon	10 Nov	1729	75	63	138	Noes
Fri	[11 Nov?]	1729	97	93	190	⁴⁶⁰
Sat	29 Nov	1729	40	36	76	Ayes
Sat	6 Dec	1729	47	93	140	Noes
Wed	10 Dec	1729	67	52	119	Ayes
Fri	19 Dec	1729	124	62	190	⁴⁶¹
		1729	99	127	126	Ayes
Sat	20 Dec	1729	75	14	89	Ayes
			95	21	116	Ayes
Mon	9 Mar	1729/30	46	29	75	Ayes
Thurs	12 Mar	1729/30	75	52	127	Ayes
Mon	16 Mar	1729/30	54	93	147	Ayes
Mon	13 Apl	1730	65	31	96	Ayes
Average number voting			131	% won by those staying in chamber		74%
Average majority			24			
For 1695 to 1730						
Average number voting			148	% won by those staying in chamber		58%
Average majority			27			

⁴⁵⁹ *Coghill Letters*, no.61 (To Edward Southwell, 13 Nov 1729); [committee of the whole House?]

⁴⁶⁰ *Coghill Letters*, no.61; it is unclear which figures are ayes and which noes; [committee of the whole House?].

⁴⁶¹ *Coghill Letters*, no.63 (To Edward Southwell, 20 Dec 1729); [committee of the whole House?]

6.20 Comparison of Perceval diaries and Journal entries on timing of sittings

Date	Perceval diary entry	Commons Journal entry	Comment
1711 session			
22 Oct 1711 (Mon)	Committee of the whole House on 'corn bill' (Bill no. 3923, <i>ILD</i>) sat from noon to 6pm.	One substantial item taken (another committee of the whole House) before noon; corn or tillage bill taken in committee of the whole House was main item of business; House adjourned the Committee of Elections and Privileges due to sit that day; no substantive business after 6pm.	Perceval dovetails with the Journal and shows the committee due to meet at 4pm had to be adjourned; Journal entries for two committees of the whole House are identical but time taken was significantly different.
24 Oct 1711 (Wed)	Resumed debate on the corn bill from 1pm to 5pm when the bill was rejected; followed by division on a motion; candles brought in; debate on the motion which was withdrawn after lengthy debate.	Business before 1pm consisted of routine thanks for a sermon, a second reading, two petitions and a message from the lord lieutenant; after corn bill, division whether to proceed to orders of the day (negatived); no business recorded after that; all committees adjourned.	The Journal and Perceval can be reconciled: the pre-1pm business appears light, though one petition may have taken some time; all committees were adjourned as the House sat after 4pm but no entry for candles; division on orders was to decide whether to allow the motion; no entry in Journal as the motion was withdrawn.
29 Oct 1711 (Mon)	Long debate on an address to lord lieutenant for papers until 6pm with two divisions.	One minor item before the debate; then the debate on address and no following business; candles brought in.	The Journal and Perceval are in step; not clear from either source when the debate started.
1713 session			
25 Nov 1713 (Wed)	Opening day of session: House sat from 11am; summoned to the House of Lords at 2pm; House returned and divided on the choice of Speaker.	House 'went up' to attend the lord lieutenant in the House of Lords; House returned and divided on choice of Speaker; no timings included.	The Journal and Perceval agree on business.
30 Nov 1713 (Mon)	Amendments on addresses occupied the House till 3pm; then election petitions.	Before addresses Members took oaths and leave was given for heads of a bill; addresses agreed with amendments; followed by three election petitions	The Journal and Perceval are in step; any item generating amendments recorded in the Journal is likely to give rise to debate.
1 Dec 1713 (Tues)	Debate on the door-keeper's fees concluded with referral to a committee, then at noon House went to the Castle; at 4pm the House elected the chairman of Committee of Elections and Privileges.	No reference to a debate, referral to committee nor to the election of the chairman; items recorded were summons to attend, an election petition referred to the Committee of Elections and Privileges and an order for papers.	A possible divergence between Perceval and the Journal; but in each case it is possible to construct a reconciliation—for example, the fees debate concluded with an intention to appoint a committee in the future; the division on the chairman may have taken place as a proceeding of the committee, not the House—Tuesday, 4pm was its scheduled meeting time and there is no indication that the House sat after 4pm.
10 Dec 1713 (Thurs)	Debate until 3pm on taking a <i>Jacobite</i> into custody, who was arrested before the House rose.	Before the debate on custody, papers brought to the bar, requests made for other papers, leave was given for heads of a bill, which appears to have given rise to some debate; after the <i>Jacobite</i> debate, appointment of committees on an address and heads of a bill and then a report from the Committee of Elections and Privileges and two election petitions, report of the arrest, three Members took oaths and other matters.	Broad overlap between Perceval and the Journal, though the business after 3pm is substantial and looks likely to have run on past 4pm, there was no order for committees, including the Committee of Elections and Privileges due to meet that day, to adjourn.

Date	Perceval diary entry	Commons Journal entry	Comment
11 Dec 1713 (Fri)	At 7pm on division the House rejected adjournment on the Dublin election petition; sat to 11pm.	Before the Dublin case, the House heard a report from the Committee of Elections and Privileges on Randalstown election, some papers were presented and the House ordered the arrest of all Catholics in the gallery; during the Dublin debate the House ordered candles to be brought in.	The Journal and Perceval are consistent. The Randalstown case was drawn-out and may have generated some debate.
12 Dec 1713 (Sat)	House sat till 9pm on the Dublin election.	Items before the resumed debate included orders for papers, orders to attend; the Committee of Elections and Privileges due to meet that day was adjourned until Tuesday and the debate was adjourned to 9am on Monday.	The Journal and Perceval are consistent. Although the committee due to meet at 4pm was adjourned, there was no instruction to bring in candles.
14 Dec 1713 (Mon)	No need to mention the proceedings because the <i>Votes</i> show them; Perceval then records further information on the Dublin election case including resolutions, which are recorded in the Journal of 15 Dec.	Journal shows resumed debate as second item after papers were delivered. The debate seems to have continued to late as all committees were adjourned and candles were brought in.	Perceval endorses the Journal for 14 Dec; Perceval records two divisions not in Journals, one of which is corroborated. ⁴⁶²
18 Dec 1713 (Fri)	Decision on Belfast election petition taken in the morning; report from committee on proceedings against Edward Lloyd at noon, debate and sitting continued to 1am; division; House sat to after 2am.	Records resolution that no magistrate can have an ordinary vote and casting vote—the issue in the Belfast case; debate on the report on proceedings against Edward Lloyd opened at noon and then adjourned to 4pm when it resumed.	Hayton points out that Speaker Brodrick gave a different version: the sitting, although scheduled to begin at noon, in fact began late. ⁴⁶³ It may be that Perceval is using the <i>Votes</i> when writing up his diary. An exceptional day that culminated in a decision (on a division not recorded in the Journal) to impeach the lord chancellor.
22 Dec 1713 (Tues)	Two sittings; second started at 3pm and the main item of business was the Dublin election.	The morning session included several substantive items; the House was summoned to the Lords to see the lord lieutenant give royal assent; Journal says the House adjourned to 4pm when the main item of business was a report on Roscommon election.	Perceval's items of business are included but the order in the Journal does not fit with what he says; a day with much business and high political drama.

⁴⁶² *Perceval Diaries*, p.132, fn 30, Hayton points out that the entry is corroborated in *BL, Add.* 38157, fol. 33.

⁴⁶³ *Perceval Diaries*, p.134, fn 39, Hayton points out that according to Speaker Brodrick the sitting on this day, although scheduled to begin at noon, in fact began late. Committee report to which Perceval refers was not read until after dinner, there having first been another debate, lasting two hours, and an adjournment (Surrey History Centre, 1248/3, f.142, Alan to Thomas Brodrick, 19 Dec 1713).

6.21 30 July 1711, items considered 'according to Order' and 'orders of the day'

Previous entries	Monday 30 July 1711	Subsequent entries
	<p>Preliminary business: Member sworn and leaves of absence granted. <i>Note:</i> 30 July was two weeks before 'transmission' adjournment on 11 Aug.</p>	
<p>16 July (Mon): House ordered leave given for heads of a bill on vagabonds and vagrants (Bill no. 4087, <i>ILD</i>), Sir William Fownes, Cadwallader Edwards and John Moore to prepare and bring in heads [<i>No subsequent entry until 30 Jul.</i>]</p>	<p>Heads of a bill on vagabonds and vagrants to reform Henrican statute According to order, Fownes presented the heads of a bill, it was committed to a committee of the whole House tomorrow</p>	<p>31 July (Tues): according to Order, House went into committee of the whole House; Fownes reported progress and leave was given to sit again on 3 Aug; 3 Aug (Wed): according to Order, House went into committee of the whole House; progress was reported and leave given to sit again on 6 Aug; 6 Aug (Mon): no entry, covered by resolution 'That all Orders of the Day, not proceeded on, be adjourned till tomorrow' 10 Aug (Fri): House resolved to consider the heads in committee of the whole House on 14 Aug [<i>i.e. no further action before recess</i>] [<i>No further entries before recess</i>; not enacted. Next attempt to legislate was in 1717 which failed (Bill no. 2334, <i>ILD</i>); legislation enacted in the 1720s (Bills nos. 4046, 1184, 0408, <i>ILD</i>).]</p>
<p>9 Oct 1703: leave was given (to Sir Richard Levinge (Attorney General) for heads for a bill to prevent Nicholas Bourke, a Papist, from disinheriting Thomas Bourke, a Protestant, on account of his religion (Bill no. 2453, <i>ILD</i>)</p>	<p>Petition from Nicholas and Thomasine Bourke seeking leave for heads of a bill to sell land Committee appointed (chairman: [Joseph?] Deane and 16 Members)⁴⁶⁴ to examine allegations, ordered to meet at 5pm that day and to have power to send for papers, persons and records</p>	<p>Committee did not report. 10 Oct 1717: leave given for heads for a bill (Henry Rose) for confirming the sales already made of part of [the estate of Nicholas Bourke and Thomasine his wife], and for sale of the residue thereof, for payment of debts, and making provision for [Nicholas Bourke and Thomasine his wife] (Bill no. 5194, <i>ILD</i>); [<i>no further progress</i>]</p>

⁴⁶⁴ *CJI*(1st edn)(III), p.869

Previous entries	Monday 30 July 1711	Subsequent entries
	Committee of Supply	
17 July (Tues): financial papers presented by the accountant general and receiver general; according to order, House considered the lord lieutenant's speech, resolved to grant a supply and to consider in committee of the whole House on 19 Jul	According to order, Stephen Ludlow reported from the Committee of Supply that a supply be granted, the House accepted the resolutions and resolved that the committee meet again on 1 Aug at noon;	1 Aug (Wed): committee of the whole House met and reported that it was ready to make a further report; report set for 2 Aug
19 July (Thurs): according to order, House went into Committee of the whole House on supply which was ready to report, the House ordered it to report on 20 Jul; the House requested further papers		2 Aug (Thurs): Stephen Ludlow for committee reported and the House agreed supply resolutions and resolved to sit as Committee of Ways and Means on 4 Aug
20 July (Fri): Gustavus Hamilton reported the lord lieutenant would order papers to be supplied; according to order, Stephen Ludlow for committee reported, the House agreed resolutions and resolved to consider further on 26 July in committee of the whole House; Committee of Accounts (86 Members) appointed and papers referred to it		4 Aug (Sat): Committee of Ways and Means met and Stephen Ludlow reported that it had come to several resolutions and the House ordered the report be made on 6 Aug
21 July (Sat): Clerk of Paper Office presented papers which were referred to the Committee of Accounts		6 Aug (Mon): Stephen Ludlow reported the resolutions which the House agreed with some amendments, <i>nemine contradicente</i> ; the House gave leave given for heads to be drafted with Ludlow, Sir Richard Levinge (Attorney General), Francis Bernard (Solicitor General) and John Jephson to draft the heads
26 July (Thurs): the House resolved to go into committee of the whole House on 28 July to consider supply; surveyor general delivered papers which were referred to the Committee of Accounts		7 Aug (Tues): Ludlow presented the heads, which were read and the House committed them to a committee of the whole house to meet at noon following day
27 July (Fri): clerks' and officers' petition for recompence referred to Committee of the whole House on Supply		8 Aug (Wed): committee of the whole House considered the heads and the House ordered it to report on 10 Aug
28 July (Sat): Samuel Dopping reported for Committee of Accounts, the report of which was referred to committee of the whole House; House went into Committee of the whole House on Supply and Stephen Ludlow reported that it was ready to report; the House ordered the report to be made on 30 Jul		10 Aug (Fri): Ludlow reported from the committee and the House agreed the heads <i>nemine contradicente</i> and ordered Ludlow to present the heads to lord lieutenant for transmission
		16 Oct: bill returned from London, presented and subsequently proceeded through all stages
		9 Nov: royal assent given (Bill no. 3036, <i>ILD</i> ; 11 Anne c.1)

Previous entries	Monday 30 July 1711	Subsequent entries
	<p>Motion that address be made to the lord lieutenant to have Dominick Langton, Friar, struck off the Establishment for malicious allegations against Protestant gentlemen of Westmeath and entering association against queen and ministry</p> <p>Committee appointed (chairman: John Moore with 26 Members)⁴⁶⁵ to examine allegations, meet at 5pm that day and have power to send for papers persons and records; requested papers from lord lieutenant</p> <p>Privy Counsellors were sent to the lord lieutenant for papers</p>	<p>31 July (Tues): Chief Secretary Edward Southwell reported that the lord lieutenant had agreed to direct the production of papers</p> <p>6 Aug: Moore reported against Langton and in favour of striking him off</p> <p>6 Nov: full report from Oliver St. George on behalf of the committee on the whether a judge attending the House of Lords could appear before a Commons committee i.e. the Moore committee. Commons sought conference with Lords</p>

⁴⁶⁵ *CJI*(1st edn)(III), p.870

Previous entries	Monday 30 July 1711	Subsequent entries
	<p>'The order of the day being read'</p> <p>Committee report on methods for preventing mischief arising from the loss of records destroyed by fire</p>	
<p>16 July (Mon): the House ordered a committee (Attorney General Sir Richard Levinge, Mr Saunders [<i>several in this parliament</i>]⁴⁶⁶ plus 15 other Members) to consider methods for preventing mischiefs arising from the loss of records destroyed by fire</p>	<p>'To be taken into account by House on 31 July at noon and nothing to intervene; House ordered that books, maps and papers preserved from fire to be laid before committee'</p>	<p>31 July (Tues): House resolved to consider the report of the committee on 2 Aug at noon; papers referred to the committee</p>
<p>17 July (Tues): House ordered privy counsellors to ask the lord lieutenant to direct officers who have suffered losses to give accounts of records and papers destroyed</p>		<p>2 Aug (Thurs): House resolved to consider the report of the committee the following day at 9am</p>
<p>18 July (Wed): privy counsellors reported that the lord lieutenant agreed to give directions as requested</p>		<p>3 Aug (Fri): no entry, covered by resolution 'That all Orders of the Day, not proceeded on, be adjourned till tomorrow'</p>
<p>25 July (Wed): attorney general, according to order, presented resolutions, which the House ordered to be considered by a committee of the whole House on 28 July at noon and it ordered officers whose papers survived the fire to present the papers</p>		<p>7 Aug (Fri): according to order, House went into committee of the whole House to consider the report and Levinge reported progress and sought leave to meet again and the House agreed and set 14 Aug [<i>i.e. no further action before recess</i>]</p>
<p>27 July (Fri): surveyor general supplied papers surviving the fire which were referred to the committee</p>		<p>[<i>No further entries</i>, though after the transmission adjournment an Irish Privy Council bill emerged which did not reach the statute book (Bill no. 5215, <i>ILD</i>); another failed in 1713 but an Irish Privy Council bill was enacted in the 1715–16 session—Bill no. 1104, <i>ILD</i>; 2 George I c.5.]</p>
<p>28 July (Sat): no entry, covered by resolution 'That all Orders of the Day, not proceeded on, be adjourned till Monday next'</p> <p>[Requests for papers made and provided, provision not listed above.]</p>		

⁴⁶⁶ *CJI*(1st edn)(III), p.830

Previous entries	Monday 30 July 1711	Subsequent entries
<p>Legislation originating in Commons had been brought forward in all sessions from 1695 but had been rejected by London or Dublin Privy Councils (Bills nos. 3850-56, <i>ILD</i>)</p> <p>21 July (Sat): the House ordered leave be given for heads of a bill for the better securing the liberty of the subject and for preventing of imprisonment beyond the seas with Clotworthy Upton, Philip Savage (Chancellor of the Exchequer), William Conolly, Stephen Ludlow and Sir Richard Levinge (Attorney General) to prepare and bring in the heads (Bill no. 3857, <i>ILD</i>)</p> <p>25 July (Wed): Member, according to order, presented heads of a bill and they were committed to a committee of the whole House on 28 Jul</p> <p>28 July (Sat): No entry, covered by the resolution 'That all Orders of the Day, not proceeded on, be adjourned till Monday next'</p>	<p>Heads of a bill for the better securing the liberty of the subject and for preventing of imprisonment beyond the seas</p> <p>House resolved to go into committee of the whole House on 2 Aug to consider the heads</p>	<p>2 Aug (Thurs): No entry, covered by resolution 'That all Orders of the Day, not proceeded on, be adjourned till tomorrow' [No further entries.]</p> <p>Later legislative attempted failed in 1713 and 1715 (Bills no. 1373, 3858, <i>ILD</i>)</p>
<p>Legislation originating in Commons had been brought forward in the 1703, 1709 and 1710 sessions</p> <p>had failed (Bills nos. 5056, 2952, 2953, <i>ILD</i>)</p> <p>16 July (Mon): House ordered leave be given for heads of a bill for ease of paying quit-rents, etc and Stephen Ludlow, John Silver, Sir Richard Levinge (Attorney General), George Rochfort, John Jephson, Philip Savage (Chancellor of the Exchequer), Richard Thompson and Edmond Echlin to prepare and bring in heads (Bill no. 2954, <i>ILD</i>)</p> <p>26 July (Thurs): Ludlow, according to order, presented heads of a bill and they were committed to a committee of the whole House on 30 Jul; and the committee was empowered to receive clauses</p>	<p>Heads of a bill for ease of paying quit-rents, etc</p> <p>House went into committee of the whole House and Ludlow reported progress and leave was given to sit again tomorrow morning</p>	<p>31 July (Tues): the House resolved to consider in committee of the whole House on 2 Aug at noon</p> <p>2 Aug (Thurs): No entry, covered by resolution 'That all Orders of the Day, not proceeded on, be adjourned till tomorrow'</p> <p>6 Aug (Mon): Ludlow reported that Committee of the whole House met and ready to report; the House ordered the report be made on 8 Aug</p> <p>8 Aug (Wed): Ludlow reported for the committee and the House agreed heads and sent Ludlow to the lord lieutenant with them for transmission to Britain; [Returned but did not emerge from House of Lords. Future attempts at legislation failed in London Privy Council or House of Lords (Bills nos. 2955-59, <i>ILD</i>).]</p>

Previous entries	Monday 30 July 1711	Subsequent entries
<p>Previous legislation originating in the Commons had been enacted in 1707 (Bill no. 1647, <i>ILD</i>).</p> <p>21 July (Sat): the House ordered leave be given for heads of a bill preventing lotteries, for exposing goods for sale by lot and St. John Brodrick, George Macartney, William Conolly, Oliver St. George and John Silver to prepare and bring in heads</p> <p>24 July (Tues): St. John Brodrick, according to order, presented heads of a bill and committed to committee of the whole House on 27 Jul</p> <p>27 July: committee of the whole House ready to report and the House ordered the report be made on 30 Jul</p>	<p>Heads of a bill for preventing lotteries, for exposing goods for sale by lot</p> <p>St. John Brodrick reported for committee of the whole House and the House agreed the report agreed and the heads were sent to the lord lieutenant for transmission to Britain—Ludlow presented them to the lord lieutenant</p>	<p>15 Oct: bill returned, presented and subsequently proceeded through all stages</p> <p>9 Nov: royal assent (Bill no. 1648, <i>ILD</i>; 11 Anne c.6)</p>
<p>[Previous bill enacted in 1709 (Bill no. 2777, <i>ILD</i>; 8 Anne c.6 (private)), failed attempt at amending legislation in 1710 (Bill no. 2778, <i>ILD</i>).]</p> <p>19 July (Thurs): petition from Sir John Rawdon for leave for a heads presented and read; the House appointed a committee (Marmaduke Coghill and 12 Members) to examine allegations and was empowered to send for papers persons and records and to adjourn from time to time</p> <p>20 July (Fri): Coghill reported the allegations proved; the House agreed and gave leave to same committee to draft heads of a bill and power to send for persons</p> <p>25 July (Wed): Coghill presented the heads, which were received and read and committed to committee of the whole House on 27 Jul</p> <p>27 July (Fri): Coghill reported the committee had considered the heads and was ready to report and the House ordered the report to be made on 30 Jul</p>	<p>Heads of a bill for explaining an act for the relief of Dorothy Rawdon, spinster</p> <p>Coghill reported from the committee of the whole House and the House agreed the report and sent the heads sent to lord the lieutenant for transmission to Britain—Coghill presenting them to the lord lieutenant</p>	<p>17 Oct: bill returned, presented and subsequently proceeded through all stages</p> <p>9 Nov: royal assent (Bill no. 2778, <i>ILD</i>; 11 Anne c.3 (private))</p>
[Business not considered]		
<p>27 July (Fri): the House ordered that the adjourned debate on an amendment to the heads of a bill for frauds committed by tenants be further adjourned to 30 Jul</p>		<p>31 July (Tues): according to Order, the House proceeded to the adjourned debate on the amendment, and the amendment was not made; the House sent heads of a bill to lord lieutenant for transmission to Britain. [<i>Subsequently enacted</i> (Bill no. 1490, <i>ILD</i>; 11 Anne c.2)]</p>
<p>28 July (Sat): the House ordered that all Orders of the Day, not proceeded on, be adjourned till Monday next</p>	<p>'That all Orders of the Day, not proceeded on, be adjourned till tomorrow'.</p>	

6.22 Petition requirements

- a) Representations to the Commons had to be in the form of a petition, which addressed the House of Commons using a standard formula and the petition set out a request, allegation or grievance concluding with a 'prayer', that is a request for action by the House; it was not acceptable to write a letter to the Commons.⁴⁶⁷
- b) Petitions had to be on parchment.⁴⁶⁸
- c) The petition had to be signed.⁴⁶⁹
- d) Petitions had to be 'be presented by a Member of the House, or called upon to be read by a Member'.⁴⁷⁰
- e) An MP complained of in a petition had to be given notice of the petition⁴⁷¹ and a Member making complaint about another Member had to bring the petition to the House of Commons, not the House of Lords.⁴⁷²
- f) The procedure was for a petition to be read to the House, the House took a preliminary view on whether to accept or reject;⁴⁷³ if accepted, the House began a process of consideration—most often, sending it to a committee—leading to an 'answer', which was approved by order of the House, or rejected.⁴⁷⁴ (The committee stage was usual for petitions concerned with legislation; in contrast a petition seeking release from confinement by the serjeant-at-arms would often be dealt with summarily.)
- g) With leave a petitioner could amend or withdraw his or her petition.⁴⁷⁵

⁴⁶⁷ *CJI(I)*, p.25

⁴⁶⁸ *CJI(I)*, pp.263, 572 Not repeated after 1662.

⁴⁶⁹ *CJI(II)*, p.14

⁴⁷⁰ *CJI(I)*, p.206 (15 May 1641); see also (I), p.369 where the House ordered the postponement of consideration of a petition until an MP was present.

⁴⁷¹ *CJI(I)*, pp.206 (15 May 1641), 595 (19 Nov 1662); in the 1640s it appears that notice could take the form of an order of the House to consider the petition on a specified day, by the 1660s the requirement was to show the petition to MP. It was likely that the House would order the postponement of consideration of a petition until MP who was directly complained of in a petition was present—see (I), pp.429, 524.

⁴⁷² *CJI(I)*, p.497; see also Dennehy, *Administrative History*, pp.45-46.

⁴⁷³ An order that a petition should 'lie on the Table'—either to allow more time for consideration or as implicit rejection—does not appear, on basis of electronic search, in the 1613–66 *CJI* and appears to be post 1692 development. A procedure which was used by the middle of the seventeenth century and later was that where a petition 'is absolutely rejected this House, and by the Clerk of this House, with the vote of the same, is torn into pieces and not suffered to remain' ((I), p.229). The House did order in 1662 a petitioner to amend his petition—(I), p.643.

⁴⁷⁴ *CJI(I)*, p.326; in middle of the seventeenth century the House sometimes bypassed investigation and consideration in committee to take a decision immediately on acceptance of a petition—for example, (I), p.306 (15 Aug 1642).

⁴⁷⁵ *CJI(I)*, p.206 (13 May 1641); the House gave permission for petitioner to amend his petition; (I), p.310 (13 Dec 1642) the House allowed petitioners to withdraw petitions, in order to pursue cases through the courts.

6.23 Statistics on petitions

Session No	No. of sitting days	Total no. of petitions	Petitions per sitting day	Petition seeking public legislation	Petition seeking private legislation (sectarian aspect)	Private Acts Irish parliament (from Commons petitions)	Private Acts (Irish) English/British parliament ⁴⁷⁶
First parliament of William III and Mary II, 1692–93; called 5 Oct 1692; dissolved 26 June 1693							
1 (1692)	25	19	0.8	2	3 (1)	0	0
Second parliament of William III, 1695–99; called 27 Aug 1695; dissolved 14 June 1699							
1 (1695)	165	201	1.2	9	31 (3)	20 (9)	1
2 (1698)	80	57	0.7	9	5 (2)	3 (0)	0
First parliament of Anne, 1703–13; called 21 Sep 1703; dissolved 6 May 1713							
							(1699–1703) 48
1 (1703)	80	100	1.3	3	24 (7)	9 (5)	(1703–04) 4
2 (1705)	58	55	0.9	8	11 (1)	8 (5)	(1704–05) 4
3 (1707)	68	85	1.3	1	14 (3)	7 (5)	(1705–07) 13
4 (1709)	68	65	1.0	4	19 (3)	6 (4)	(1707–09) 3
5 (1710)	51	29	0.6	0	6 (1)	6 (2)	(1709–10) 6
6 (1711)	53	21	0.4	0	5 (0)	5 (3)	(1710–12) 5
Second parliament of Anne, 1713–14; called 25 Nov 1713; dissolved 1 Aug 1714 (death of monarch)							
1 (1713)	26	22	0.8	0	0	0	2
Parliament of George I, 1715–27; called 12 Nov 1715; dissolved 11 June 1727 (death of monarch)							
1 (1715)	93	87	0.9	0	5 (0)	7 (3)	3
2 (1717)	69	52	0.8	0	3 (0)	2 (1)	
3 (1719)	68	51	0.8	0	9 (0)	9 (6)	
4 (1721)	73	51	0.7	0	10 (0)	0	
5 (1723)	95	69	0.7	0	13 (1)	11 (6)	
6 (1725)	76	44	0.6	4	11 (0)	7 (7)	
Parliament of George II, 1727–60; called 28 Nov 1727; dissolved 25 Oct 1760 (death of monarch)							
1 (1727)	82	106	1.3	0	3 (0)	3 (2)	
2 (1729)	97	50	0.5	5	5 (0)	5 (4)	

⁴⁷⁶ HoP(1690)(I), p.531

6.24 Petitions: content of selected petitions

6.24.1 Petitions to House of Commons in the session 1698–99 seeking private legislation

No.	Requested measure	Petition	Initial action	Member in charge	Outcome ⁴⁷⁷
1	Petition of Geoffrey Blake To prevent Geoffrey Blake's father, a Catholic, from disinheriting him* <i>Note:</i> this was the second attempt to obtain legislation; an attempt in the previous session failed; and a third attempt in 1703 reached the English Privy Council where it was rejected and see pp.117ff above and Appendix 6.16.	4 Oct	To select committee (18 Members) ⁴⁷⁸ to investigate and prepare heads of a bill	Col. Eyre	Although committee revived Jan 1698/9, it was after transmission recess; no evidence of further progress;
2	Petition of corporation of felt-makers To prevent the deceits and abuses in making hats and felts <i>Note:</i> this was the third attempt to obtain legislation; attempts in 1692 and 1695 had failed as did a final attempt in 1703; they never got beyond the Commons	7 Oct	To select committee (18 Members) ⁴⁷⁹ to consider the petition	John Weaver Sr.	Committee reported in favour of heads, 1 Nov; no further progress
3	Petition of John Northcote and others For the relief of his majesty's Protestant subjects, commonly known by the name of the 'Galway prisoners' <i>Note:</i> counter-petition slowed progress	23 Nov	To select committee to consider relief	Thomas Brodrick (Solicitor General)/ John Weaver Sr.	Committee reported in favour of heads of a bill, 25 Nov; counter-petition heard 30 Nov; to committee 3 Jan; reported 5 Jan; sent for transmission 9 Jan; rejected by Irish Privy Council
4	Petition of guardian, James Leigh For enabling John Baker, a minor, to raise money on his estate for the payment of his brother's and sisters' portions. <i>Note:</i> opposition of a relative may have stymied legislation	25 Nov	To select committee (11 Members) ⁴⁸⁰ to consider petition and prepare heads of a bill	Edward Singleton	Counter-petition by relative, 7 Jan 1698/9; no evidence of further progress
5	Petition of Henry Owen To enable Henry Owen to sell his estate for payment of debts and legacies	30 Nov	Francis Bernard to bring in heads of a bill	Francis Bernard	Committee never reported

⁴⁷⁷ Three private bills were enacted at the end of the session, all of which originated in Irish Privy Council.

⁴⁷⁸ *CJI*(1st edn)(II), p.999

⁴⁷⁹ *CJI*(1st edn)(II), p.1002

⁴⁸⁰ *CJI*(1st edn)(II), p.1062

6.24.2 Petitions in the 1703–04 session seeking private legislation

No.	Requested measure	Petition	Initial action	Member in charge	Outcome ⁴⁸¹
1	Petition of Mary Poor alias Penefather, and others For the confirming an award made by the court of exchequer	27 Sep	Leave given for heads of a bill [No Member named]	Philip Savage (Chancellor of the Exchequer); committed to a select committee of 17 Members ⁴⁸²	Enacted: 2 Anne c.5 (private) (Bill no. 2766, <i>ILD</i>)
2	Petition of Chichester Phillips To prevent George Matthews, a papist, and Martha, his wife, from barring a remainder limited to Chichester Phillips*	28 Sep	Henry Tenison ordered to bring in heads of a bill	Tenison, then Marmaduke Coghill; committed to a select committee of 11 Members ⁴⁸³	25 Oct George and Martha Matthews' counter-petition to be heard against heads were rejected; Coghill heads presented to lord lieutenant; English Privy Council rejected (Bill no. 2687, <i>ILD</i>)
3	Petition of Jeffrey Blake ⁴⁸⁴ For settling part of the estate of Walter Blake to prevent the disherison of Jeffrey Blake, on account of his being a protestant* (see pp.117ff above and Appendix 6.16)	29 Sep	John Forster and Col. Eyre and named MPs ordered to bring in heads of a bill	John Forster reported heads; committed to a select committee from which Sir Francis Blundell reported	30 Oct Walter and Thomas Blake's counter-petition to be heard against heads were rejected; heads presented to lord lieutenant but rejected by English Privy Council
4	Petition of Redmond Morres To prevent the disinheriting of Redmond Morres, [because he is a Protestant]*	30 Sep	Robert Molesworth, Stephen Ludlow and Edward Deane ordered to bring in heads of a bill	Robert Molesworth reported heads; committed to a select committee from which William Conolly reported	Enacted: 2 Anne c.6 (private) (Bill no. 2707, <i>ILD</i>)
5	Petition of Nicholas Nugent To prevent Nicholas Nugent being disinherited because he was a Protestant*	2 Oct	Robert Rochfort (Attorney General) and Mr Brodrick ordered to bring in heads of a bill with a drafting instruction to exclude anyone who turned Catholic	Robert Rochfort; committed to a select committee	22 Oct heads sent to select committee; 25 Oct counter-petition by Richard Nugent, who was given permission to be heard at bar; no record of progress after 19 Nov when heads ordered to lie on the Table (Bill no. 2725, <i>ILD</i>)
6	Petition of Randal Acton To replicate English laws on felt-making in Ireland	7 Oct	Rejected		
7	Petition of Richard Delamer To allow Richard Delamer to mortgage or sell part of his estates	7 Oct	Edward Wingfield, Robert Rochfort (Attorney General) and Francis Bernard ordered to bring in heads of a bill	Edward Wingfield; committed to a select committee, which included all barristers	18 Oct heads committed; 8 Nov counter-petition by Edward Delamer and House agrees to hear him at the bar; no further progress (Bill no. 2530, <i>ILD</i>)

⁴⁸¹ For list of private bills enacted at end of session see table at end of this Appendix.

⁴⁸² *CJI*(1st edn)(III), p.29

⁴⁸³ As above

⁴⁸⁴ See pp.117ff above.

No.	Requested measure	Petition	Initial action	Member in charge	Outcome ⁴⁸¹
8	Petition of Hollow Swordblades corporation To enable the corporation for making of Hollow Swordblades to take conveyances on lands in Ireland	9 Oct	Petition to lie on Table	-	Does not progress
9	Petition of Lady Hellen Flemming and others For sale of the lands of Sir Justin Aylmer, baronet, for payment of debts	15 Oct	Robert Rochfort (Attorney General) and Philip Savage (Chancellor of the Exchequer) ordered to bring in heads of a bill	Robert Rochfort committed to a select committee with instruction to hear all concerned	21 Oct heads sent to select committee; 27 Oct counter-petition from Sir Justin and House agreed he could be heard at bar; no record that committee reported (Bill no. 2415, <i>ILD</i>)
11	Petition of minister and churchwardens of St. Mary's To empower the church wardens of St. Mary's parish, Dublin, to distrain money for finishing the parish church of St. Mary's	21 Oct	Robert Rochfort (Attorney General) and William Neave ordered to bring in heads of a bill	Robert Rochfort; committed to a committee of the whole House	Enacted: 2 Anne c.9 (private) (Bill no. 2127, <i>ILD</i>)
12	Petition of mayor, etc. of Cork To make St. Mary Shandon a parish church in Cork	21 Oct	Committee ordered to prepare a clause to be added to the bill	Thomas Erle; committed to a committee of the whole House	Enacted: 2 Anne c.8 (private) (Bill no. 1291, <i>ILD</i>); the Act also provided for cleansing the channel of Cork harbour
13	Petition of Thomas Bell and others For the relief of the Protestant creditors of Walter Kennedy [i.e. to enable him to sell or mortgage land]*	25 Oct	William Conolly and Stephen Ludlow ordered to prepare heads of a bill and to hear all parties	William Conolly; committed to a select committee of 11 Members ⁴⁸⁵	29 Oct no record that it reported; 11 Nov counter-petition of Ruth Kennedy, heard; 15 Nov heads rejected (Bill no. 2641, <i>ILD</i>) 15 Nov further petition by Bell rejected
14	Petition of John Baker For heads of a bill to provide relief of Mr John Baker in recompense of his father Colonel Henry Baker's service at the siege of Londonderry	26 Oct	Henry Tenison and Thomas Bellingham ordered to prepare heads of a bill and to hear all parties	Robert Rochfort (Attorney General), Sir Richard Levinge, John Foster and William Conolly added to the committee on 29 Oct	Petition withdrawn (Bill no. 2418, <i>ILD</i>) [perhaps on the basis that an alternative arrangement had been secured]
15	Petition of Anne-Margaret Wall For relieving Anne-Margaret Wall, spinster of debts incurred by her father	28 Oct	Morley Saunders, Robert Rochfort (Attorney General) and Anderson Saunders ordered to prepare heads of a bill and to hear all parties	[Morley Saunders?]	Not fully recorded in Journals; was rejected by English Privy Council (Bill no. 5070, <i>ILD</i>)
16	Petition of Hugh Montgomery and others To replace lost documents and to sell the lands of Francis de la Rue, deceased for payment of debts	28 Oct	Anderson Saunders, Edward Wingfield and John Mahon ordered to prepare heads of a bill and to	[Anderson Saunders?]	No heads brought in (Bill no. 2698, <i>ILD</i>)

⁴⁸⁵ *CJI*(1st edn)(III), p.84

No.	Requested measure	Petition	Initial action	Member in charge	Outcome ⁴⁸¹
			hear all parties		
17	Petition of Margaret Culme For relief of Margaret Culme [of debts]	29 Oct	Sent to a select committee of 10 Members, ⁴⁸⁶ to draft heads of a bill, and ordered to hear all parties	[Sir William Parsons?]	No heads brought in (Bill no. 2521, <i>ILD</i>)
18	Petition of Thomas Bourk To prevent Nicholas Bourk, a Papist, from disinheriting Thomas Bourk, a Protestant, on account of his religion*	29 Oct	Sir Richard Levinge, Lt-Gen. William Steuart and Chief Secretary Southwell ordered to prepare heads of a bill and to hear all parties	[Sir Richard Levinge?]	No record that the select committee reported (Bill no. 2453, <i>ILD</i>)
19	Petition of Sir Robert Newcomen and others For charging the estates of all the Irish papists restored by the articles of Limerick for rebuilding the bridge over the River Shannon, which was broke down by the Irish papists in the late rebellion*	30 Oct	Sent to a select committee consisting of all Members from cos. Roscommon and Longford, ⁴⁸⁷ to draft heads of a bill	Edward Wingfield; committed to a committee of the whole House	22 Nov committee reported and heads sent to the lord lieutenant; the heads were rejected by the Irish Privy Council (Bill no. 0284, <i>ILD</i>)
20	Petition of Anthony Hammond For the relief of Anthony Hammond, guardian to Valentine Browne, commonly called Lord Kenmare, etc. against trustees	30 Oct	Sent to a select committee to consider the truth of the petition with power to send for persons and ordered to hear all parties; all Members allowed to speak at the committee	[Robert Johnson?]	Representations heard at the bar and then the petition was rejected (Bill no. 2465, <i>ILD</i>)
21	Petition of David Power To enable David Power to settle a jointure on his present wife, or any after-taken wife, and to charge his real estate with portions for his younger children	2 Nov	Robert Rochfort (Attorney General) and John Forster ordered to prepare heads of a bill and to hear all parties	Robert Rochfort	Heads of a bill presented and re-committed; no record of further progress (Bill no. 2767, <i>ILD</i>)
22	Petition of Sir Hans Hamilton For the sale of part of the estate of Sir Hans Hamilton, for payment of debts and for other purposes	3 Nov	Sent to a select committee of 17 Members, ⁴⁸⁸ to draft heads of a bill, and ordered to hear all parties	Charles Campbell; committed to same committee but all members to have voice	Enacted: 2 Anne c.3 (private) (Bill no. 2602, <i>ILD</i>)

⁴⁸⁶ *CJI*(1st edn)(III), p.83

⁴⁸⁷ *CJI*(1st edn)(III), p.87

⁴⁸⁸ *CJI*(1st edn)(III), p.95

No.	Requested measure	Petition	Initial action	Member in charge	Outcome ⁴⁸¹
23	Petition of Francis Edgeworth To enable trustees to sell part of the estate of Arthur Culme, esquire, deceased, for payment due to Francis Edgeworth	8 Nov	Sent to a select committee of 8 Members, ⁴⁸⁹ to draft heads of a bill, and ordered to hear all parties	Robert Rochfort (Attorney General); committee was enlarged on 9 Nov	Committee reported but recommitted; counter petition by Daniel Golborne; ⁴⁹⁰ no heads agreed by House (Bill no. 2522, <i>ILD</i>)
24	Petition of John Leslie, dean of Dromore To dispose of part of [the estate of Reverend Dean John Leslie] towards satisfaction of his creditors	8 Nov	Sent to a select committee of 8 Members ⁴⁹¹ to draft heads of a bill and ordered to hear all parties	William Conolly	No heads brought in
25	Petition of Gideon Johnson For selling part of Colonel John Browne's estate	9 Nov	Sent to a select committee to consider the petition with power to send for persons, papers and records and ordered to hear all parties; all Members allowed to speak at committee	Edward Wingfield	Parallel heads in Lords; bill sent to Commons on 3 Mar but did not pass (Bills nos. 2465-67, , <i>ILD</i>)
* Explicit sectarian dimension					

⁴⁸⁹ *CJI*(1st edn)(III), p.103

⁴⁹⁰ Golborne was a committee clerk (see Appendix 6.4.3).

⁴⁹¹ *CJI*(1st edn)(III), p.103

Note on private bills enacted during the 1703–04 session of the Irish parliament ⁴⁹²		
Act	Long title	Originating body
2 Anne c.1 (Bill no. 2739, <i>ILD</i>)	To confirm the sales, fee farms and leases made by James, duke of Ormond, and Charles, earl of Arran, and to enlarge a period for making fee farms until Michaelmas 1705, and to enable the earl of Arran to sell lands to the value of £100 per annum if need be.	Irish Privy Council
2 Anne c.2 (Bill no. 2786, <i>ILD</i>)	For the relief of Richard, lord viscount Ross, and Frances Parsons his sister.	Irish Privy Council
2 Anne c.3 (Bill no. 2602, <i>ILD</i>)	For the sale of part of the estate of Sir Hans Hamilton, baronet, for payment of his grandfather's debts and for other purposes.	Petition to Irish House of Commons
2 Anne c.4 (Bill no. 5376, <i>ILD</i>)	For vesting certain lands and hereditaments of James Stopford, esquire, lying in the county of Meath in trustees to be sold for payment of debts and portions and for other purposes.	Irish Privy Council
2 Anne c.5 (Bill no. 2766, <i>ILD</i>)	For the confirming an award made by the honourable the barons of Her Majesty's Court of Exchequer, between Mary Poor alias Penefather, Richard, William, and Thomas Poor, and Walter Stephens, esquire, and for securing and settling the several interests as are therein designed and appointed.	Petition to Irish House of Commons
2 Anne c.6 (Bill no. 2707, <i>ILD</i>)	To prevent the disinheriting of Redmond Morres, esquire.	Petition to Irish House of Commons
2 Anne c.7 (Bill no. 2499, <i>ILD</i>)	To prevent the disinheriting of Captain Garret Coghlan, a Protestant in her majesty's service.	Irish Privy Council
2 Anne c.8 (Bill no. 1291, <i>ILD</i>)	For cleansing the channel of the harbour of Cork.	Petition to Irish House of Commons
2 Anne c.9 (Bill no. 2127, <i>ILD</i>)	To empower the church wardens of St Mary's parish, Dublin, to distrain for money already apportioned or hereafter to be apportioned for the finishing the parish church of St Mary's, and the same for finishing the parish church of St Paul's.	Petition to Irish House of Commons

⁴⁹² Kelly, *Poyning's Law*, pp.131-32, examines the private legislation enacted in this session. He speculates that the process meant that, when a private bill was contested because of the genuine commitment to provide fairly from all parties in family segments, opposition often meant it failed. He considers that the records are not, however, such as to allow for the reasons for rejection in the British/English Privy Council to be firmly established.

6.24.3 1711 session petitions seeking private legislation⁴⁹³

Requested measure	Petition	Initial action	Member in charge	Outcome ⁴⁹⁴
Petition of Sir John Rawdon For amending an act for the relief of Dorothy Rawdon, spinster (8 Anne c.6 (private)).	19 July 1711	To select a committee (13 Members) ⁴⁹⁵ to consider allegations in petition empowered to call for persons, papers and records; same committee drafted and brought in heads on 25 July which were committed to a committee of the whole House that reported on 30 July	Marmaduke Coghill	Enacted: 11 Anne c.3 (private) (Bill no. 2779, <i>ILD</i>)
Petition of John Walsh For the sale of lands of John Walsh	20 July 1711	To select a committee (12 Members) ⁴⁹⁶ to consider the truth of the allegations in the petition empowered to call for persons; same committee drafted and brought in heads on 1 Aug which were committed to a committee of the whole House which reported on or after 2 Aug	Samuel Dopping, then Silvestre Crosse	Enacted: 11 Anne c.4 (private) (Bill no. 2849, <i>ILD</i>)
Petition of Sir Thomas Hackett To enable part of an act enabling the sale of Sir Thomas Hackett's estate to be repealed, for the benefit of John Hackett (see Bills nos. 2597-99, <i>ILD</i>)	21 July 1711	To lie on the Table; 23 July to a select committee (12 Members) ⁴⁹⁷ to consider the allegations in the petition, empowered to call for persons, papers and records	Robert Rochfort (Attorney General)	No record that the select committee reported
Petition of the Countess of Tyrone and others To enable the countess of Tyrone, to set leases of the estate of the earl for a term not exceeding 31 years	23 July 1711	To a select committee (14 Members), ⁴⁹⁸ to consider allegations in the petition, empowered to call for persons, papers and records; same committee drafted and brought in heads on 28 July which were committed to a committee of the whole House which reported on 1 Aug	Lt-Gen. William Steuart	Enacted: 11 Anne c.1 (private) (Bill no. 2833, <i>ILD</i>)
Petition of Nicholas and Thomasine Bourk To enable Nicholas and Thomasine Bourk to sell lands to pay debts	30 July 1711	To select a committee (17 Members), ⁴⁹⁹ to consider allegations in the petition, empowered to call for persons, papers and records	Mr Dean	No evidence committee reported (see Bills nos. 2453, 5194, <i>ILD</i>)

⁴⁹³ Entries based on *CJI* except where indicated otherwise

⁴⁹⁴ One bill enacted at end of session originated in Irish Privy Council: To vest the inheritance of certain lands in the barony of Ibaune and Barryroe in the county of Cork in Francis Bernard, esquire, and his heirs, and to vest certain terms for years in the said lands in Stephen and Peter Ludlow, esquires, respectively, in trust for the said Francis Bernard, pursuant to an agreement made between the said Francis Bernard and William Pen, senior, and William Pen, junior, esquires, for the purchase of the said lands (11 Anne c.2) (Bill no. 2434, *ILD*).

⁴⁹⁵ *CJI* (1st edn)(III), p.835

⁴⁹⁶ *CJI* (1st edn)(III), p.838

⁴⁹⁷ *CJI* (1st edn)(III), p.839

⁴⁹⁸ *CJI* (1st edn)(III), pp.839-40

⁴⁹⁹ *CJI* (1st edn)(III), p.869

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Cambridge Alumni Database: <http://venn.lib.cam.ac.uk/Documents/acad/intro.html>

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